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MANUAL
ON
FEDERAL PROGRAMS AFFECTING
VOCATIONAL REHABILITATION

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National Health Division
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INTRODUCTION

The need for optometrists' involvement in vocational rehabilitation programs is dramatically demonstrated in the fact that there are over one and one quarter million persons in the U.S. who have severe sight impairments other than blindness. Almost 25 percent of these are classified as legally blind (20/200 or worse), and the large majority of these persons do have some degree of residual sight, i.e., any semblance of sight, even a mere perception of light, frequently enough to be helped by some form of visual aids.

There is the remaining 75 percent of this group that must not be overlooked, those who fall in the class termed partially sighted. Partially sighted are those who cannot identify letters 30.45 mm high (approx. 1-1/4 inch) from a distance of 20 feet (20/70), but can identify large objects in their vicinity.

It is estimated that 60 percent of persons in the employable age group (age 17 through 64) have a sight problem in need of correction. The vast majority of the aforementioned sight impairments other than blindness could be dramatically helped through optometric services, which would not only improve national productivity by eliminating waste, but, as in the case of the aged, greatly reduce human tragedy and suffering that result from accidents directly attributable to sight deficiency.

But the partially sighted and those with sight impairments other than blindness must first be located and given the sophisticated optical aid which can improve their ability to see and grant to them what is now recognized as an inalienable right: the right to a productive and free life.

There are approximately 20,000 practicing optometrists in 5,813 municipalities rendering two-thirds of our nation's visual care. This means that there are roughly nine optometrists for every 100,000 persons in the United States, a ratio which makes optometry particularly well suited in making vision care more available and accessible to vocational rehabilitation patients, to whom time is of the essence. A large percentage of cases involving legal blindness are now detected by optometrists during routine eye examinations in private practice settings. A significant percentage of cases are detected within federal and state programs for the legally blind in which optometrists are being utilized for examinations and certification of legal blindness. But while the contributions that optometry is presently making are great at present, the needs of the under-served are also great.

Those sight handicapped people who are identified may be helped by optometrists through the use of special aids which are different from conventional glasses. These special aids clarify, brighten, and magnify objects and symbols enabling partially sighted workers to adequately perform their duties. The optometrist accomplishes this through visual therapy, using telescopic, microscopic, and contact lenses and light control devices, and closed circuit TV and functional aids. Optometric research leading to further refinements of these special optical aids is a continuing project to which many individual practitioners and optometric teaching institutions have addressed their efforts. Dramatic progress has been made in the last 20 years and even greater breakthroughs are anticipated for the future.

Former Secretary of Health, Education and Welfare Elliot Richardson, stated in a report to the Congress in September 11, 1970, "Although the primary service performed by most practicing optometrists is the provision of eye examinations and visual analyses, **optometrists are trained to detect any departure from the optimally healthy eye.** The scope of optometric services has expanded beyond basic clinical instrumentation, contact lens fitting, visual training, orthoptics, **low-vision aids for the partially sighted**, artificial eyes, industrial vision consultation, and public and community health. The most rapidly expanding area of service is in school consultation and remedial services for low achievers. The optometrist is trained and bound by professional ethics to refer patients in whom indications of disease have been found to a physician or other health practitioner for definitive diagnosis and appropriate medical, surgical, or other treatment" (emphasis added).

It is now incumbent on optometry as a major health profession to be more involved in the government-sponsored health program, vocational rehabilitation, that can bring an added dimension of optometry to the American people. This program is an effective, comprehensive and interdisciplinary program for the improvement of health and physical abilities for sight handicapped persons, which is entirely in line with the goals of optometry. Optometric programs are fully and accurately included and provisions are repeatedly made insuring freedom of choice.

Acknowledgement should be given to the following persons who participated in the development of this manual: J.D. Newman, O.D., Morton Davis, O.D., Abe Pogoda, O.D., Robert Johnson, O.D., Earl Fisher, O.D., the **Calif. Optometrist**, Earle Hunter, O.D., Charles Danner, Timothy Redmon, Dawn McKinney, Tom Eichhorst, and David Lewis.

Charles I. Hughes, O.D.
Chairman
Committee on Public Health

FACT SHEET: VOCATIONAL REHABILITATION

1. **Intent of program:** Generally to assist the states in providing services to handicapped individuals so that they may prepare for and engage in gainful employment.
2. **Authority:** Rehabilitation Act of 1973 (Public Law 93-112), as amended by the Rehabilitation Act Amendments of 1974 (P.L. 93-516).
3. **How the program works:** (Title I) Each state, in order to qualify for federal funds, must adopt a state plan for vocational rehabilitation services which shall include, among other things:
 - (a) Physical and mental restoration services, including "eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select." "Visual services" are defined in regulations as meaning "visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, as prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select."
 - (b) Regulations require that in "all cases of visual impairment, an evaluation of visual loss will be provided by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select."
 - (c) Each deaf and severely handicapped hard-of-hearing beneficiary shall be provided with a visual evaluation.
 - (d) Reader services for those individuals "determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select."

These programs are administered through state and local vocational rehabilitation agencies. Other segments of the vocational rehabilitation program include:

- (a) (Title II) Federal assistance to state and public or nonprofit agencies and organizations to
 - (1) Plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and
 - (2) Plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training. Among the projects eligible for grants and contracts are those which demonstrate improved services to the handicapped or projects which demonstrate new approaches to service delivery or make recreational activities accessible to the handicapped.
 - (b) (Title III) HEW grants and contracts to assist in the construction and initial staffing of rehabilitation facilities, and grants for "special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals . . . which experiment with new types of patterns of services or devices for the rehabilitation of handicapped individuals."
4. **Optometry's role and potential involvement**
 - (a) Evaluation of visual loss for each case of visual impairment, and each case of a deaf and severely handicapped hard-of-hearing beneficiary.
 - (b) Determination that a beneficiary is blind and thus eligible for reader services.
 - (c) "Visual training."

- (d) Examination and services necessary for the provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids.
- (e) Participation in research and training activities.
- (f) Establishment of rehabilitation facilities.

5. **Eligibility for services**

- (a) Providers: most states will utilize panels, which are often assembled by local vocational rehabilitation officials.
- (b) Recipients: the state may base eligibility only upon "the presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability."

6. **Fees:** set by each state

OFFICE OF HUMAN DEVELOPMENT

REHABILITATION SERVICES AND FACILITIES-BASIC SUPPORT
(BASIC SUPPORT PROGRAM)

PROGRAM DESCRIPTION

A program to provide vocational rehabilitation services to persons with mental and physical handicaps. The program also provides small business opportunities for the blind through vending stands on Federal and other property. Priority service is placed on needs of those persons with the most severe disabilities.

USES AND USE RESTRICTIONS

Federal and state funds are used to cover the costs of providing rehabilitation services which include: diagnosis, comprehensive evaluation, counseling; training, reader services for the blind, interpreter services for the deaf, and employment placement. Also assist with payment for medical and related services and prosthetic and orthotic devices, transportation to secure vocational rehabilitation services, maintenance during rehabilitation, tools, licenses, equipment, supplies, and other goods and services; vending stands for handicapped persons including management and supervisory services; and assistance in the construction and establishment of rehabilitation facilities. Services are provided to families of handicapped individuals when such services will contribute substantially to the rehabilitation of such individuals who are being provided vocational rehabilitation services.

TYPES OF ASSISTANCE/MATCHING AND FORMULA GRANTS

Formula Grants.

Federal funds are distributed based on population weighted by per capita income squared.

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY:

State agencies designated as the sole state agency to administer the vocational rehabilitation program.

BENEFICIARY ELIGIBILITY:

Eligibility for vocational rehabilitation services is based on the presence of a physical or mental disability, the existence of a substantial handicap to employment, and a reasonable expectation that vocational rehabilitation services may render the individual fit to engage in a gainful occupation.

APPLICATION PROCEDURE

Applicants should contact their vocational rehabilitation agency. Vocational rehabilitation agencies submit project proposals to appropriate HEW Regional office.

APPROPRIATIONS

Fiscal Year 1975	\$680,000,000
Fiscal Year 1976 est.	\$680,000,000

PROGRAM ACCOMPLISHMENTS

Estimates for Fiscal Year 1975 indicate that 1,326,000 persons will receive services and approximately 394,000 persons will be rehabilitated.

ENABLING LEGISLATION

Rehabilitation Act of 1973 (Public Law 93-112); 29 U.S.C. 701 et seq; Public Law 93-516.

INFORMATION CONTACT

Director, Division of State Program Financial Operations
Rehabilitation Services Administration
Office of Human Development
Department of Health, Education, and Welfare
Washington, D.C. 20201
202/245-0085

OFFICE OF HUMAN DEVELOPMENT

VOCATIONAL REHABILITATION SERVICES
FOR SOCIAL SECURITY DISABILITY
BENEFICIARIES
(BENEFICIARY REHABILITATION PROGRAM)

PROGRAM DESCRIPTION

A program to provide necessary rehabilitation services to more disability beneficiaries to enable their return to gainful employment.

USES AND USE RESTRICTIONS

The funds are to be used to pay the cost of providing vocational rehabilitation services to selected disability beneficiaries; such services to include the full range of services authorized under the Rehabilitation Act of 1973.

TYPES OF ASSISTANCE/FORMULA AND MATCHING GRANTS

Direct Payments with Unrestricted Use.

Formula: Trust Funds are made available to States based on the State's Disability Beneficiary population during the preceding year. No State will receive less than \$125,000. No matching requirements.

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY:

States operating under a State plan approved under Section 101 of the Rehabilitation Act of 1973; if State agency has no amended State plan other public or private agencies, organizations, institutions, or individuals may be designated by the Secretary.

BENEFICIARY ELIGIBILITY:

Vocational rehabilitation services will be furnished to disability beneficiaries for whom it is determined that there exists sufficient vocational rehabilitation potential for their return to gainful employment. The program is to be carried out in such a way as to result in a savings to the Social Security trust funds.

APPLICATION PROCEDURE

Applications should be submitted to the Commissioner, Rehabilitation Services Administration, or appropriate Regional Office.

APPROPRIATIONS

Fiscal Year 1974	\$ 69,705,000
Fiscal Year 1975 est.	\$ 83,000,000
Fiscal Year 1976 est.	\$101,000,000

PROGRAM ACCOMPLISHMENTS

An estimated 36,000 disability beneficiaries are on active caseload with 15,500 estimated beneficiaries to be rehabilitated in Fiscal Year 1974.

ENABLING LEGISLATION

Social Security Act, as amended in 1965, Section 222(d) as added by Section 336 of Public Law 89-97 (79 Stat. 408-409); 42 U.S.C. 422(D).

INFORMATION CONTACT

Director, Office of Special Programs
Rehabilitation Services Administration
Office of Human Development
Office of the Secretary
Department of Health, Education, and Welfare
Washington, D.C. 20201
202/245-0150

OFFICE OF HUMAN DEVELOPMENT

REHABILITATION SERVICES AND
FACILITIES-SPECIAL PROJECTS
(REHABILITATION SERVICES PROJECTS)

PROGRAM DESCRIPTION

A program to provide funds to State vocational rehabilitation agencies and public or nonprofit organizations for the expansion and improvement of services for the mentally and physically handicapped over and above those provided by the Basic Support Program administered by states.

USES AND USE RESTRICTIONS

Innovation and expansion, client assistance, projects with industry, new careers for the handicapped, initial staffing training services, facilities improvement, technical assistance, and migrant workers: Grants must substantially contribute to solution of vocational rehabilitation problems common to the total physically and mentally handicapped population. For example: Projects to prepare handicapped individuals for gainful employment in the competitive labor market; payment to cover cost of planning, preparing, and initiating services for the handicapped; cost of recruiting and training individuals for new career opportunities for the handicapped in the fields of rehabilitation, health, welfare, safety, and law enforcement; technical assistance to states in developing programs to fit these criteria. Staffing of facilities: Grants must assure that the facility constructed will be used as a public nonprofit rehabilitation facility for at least 20 years; meets the standards of safety for rehabilitation facilities and specifications established by HEW and the State; and that labor costs, etc., meet HEW and State regulations. Facility improvement: Funds may be awarded when HEW is assured that the purpose of the project is to prepare the handicapped for gainful employment. Funds may be used to analyze, improve, and increase professional services staff, and to provide technical assistance to rehabilitation facilities through the purchase of services of experts and others including per diem, travel expenses, etc.

TYPES OF ASSISTANCE/FORMULA AND MATCHING GRANTS

Project Grants (and Contracts).

Matching rate is determined by the type of project funded. Projects with industry and new career opportunities which have no set matching requirement and are open to negotiation, training, services, and expansion grants have an initial maximum 90 percent Federal share with the expectation of increased grantee participation; initial staffing grants have a 75 percent Federal matching for the first 15 months; 60 percent Federal, second 12 months; 45 percent Federal, third 12 months; 30 percent Federal, fourth 12 months. Facility improvement grants have an 80 percent matching requirement.

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY:

Public or nonprofit institution or organization or State agency.

BENEFICIARY ELIGIBILITY:

Physically or mentally, or emotionally handicapped persons, with emphasis on those with the most severe disabilities.

APPLICATION PROCEDURE

State vocational rehabilitation agency approved applications should be submitted to the Office of Human Development Regional Office for project grants or, in certain cases to: Director, Division of Grants and Contracts, Office of Human Development, Department of Health, Education, and Welfare, Room 1427, 330 C Street, S.W., Washington, D.C. 20201.

APPROPRIATIONS

Fiscal Year 1974	\$53,600,000
Fiscal Year 1975	\$13,900,000
Fiscal Year 1976 est.	\$13,400,000

PROGRAM ACCOMPLISHMENTS

Rehabilitation services projects because they support basic State grant programs are essential to the overall program accomplishment of the rehabilitation services and facilities programs. For Fiscal Year 1974, it is estimated 1,320,000 persons will receive services and approximately 375,000 persons will be rehabilitated. Estimates for Fiscal Year 1975 indicate that 1,326,000 persons will receive services and approximately 394,000 persons will be rehabilitated. In addition, the rehabilitation services projects are being directed toward rehabilitation of the severely handicapped and the disabled public assistance recipient.

ENABLING LEGISLATION

Rehabilitation Act of 1973, Public Law 93-112, Sections 112, 120, 301(b)(c), 302(b)(c), 304(b)(2), 304(c)(d), 304(e); 29 U.S.C. 701 et seq.

INFORMATION CONTACT

Director, Division of State Program Financial Operations
Rehabilitation Services Administration
Office of Human Development
Office of the Secretary
Department of Health, Education, and Welfare
Washington, D.C. 20201
202/245-0085

OFFICE OF HUMAN DEVELOPMENT

REHABILITATION RESEARCH AND DEMONSTRATIONS

PROGRAM DESCRIPTION

A program to discover, test, demonstrate, and promote utilization of new concepts and devices which will provide rehabilitation services to handicapped individuals.

USES AND USE RESTRICTIONS

Grants and contracts are awarded for innovative research and demonstrations of regional and national significance that are responsive to Rehabilitation Services Administration (RSA) program priorities. All applications must meet standard of excellence in research or evaluation design.

TYPES OF ASSISTANCE/FORMULA AND MATCHING GRANTS

Project Grants; Research Contracts.

Grantees are required to share in the cost of projects. The average cost sharing is 10 percent of total project costs.

ELIGIBILITY REQUIREMENTS

APPLICANT ELIGIBILITY:

Grants may be made to States and nonprofit organizations. Contracts may be executed with nonprofit or profit organizations. Grants cannot be made directly to individuals.

BENEFICIARY ELIGIBILITY:

The mentally and physically handicapped.

APPLICATION PROCEDURE

Application forms are submitted to Director, Division of Grants and Contracts Management, RSA, HEW, Room 1427, 330 C St., S.W., Washington, D.C. 20201..

APPROPRIATIONS

Fiscal Year 1975	\$20,000,000
Fiscal Year 1976 est.	\$20,000,000

PROGRAM ACCOMPLISHMENTS

In Fiscal Year 1974, 116 projects were supported. Grants and contracts range from \$10,000 to \$1,500,000. Individual project grants average about \$75,000 a year. These figures vary with type of program.

ENABLING LEGISLATION

Rehabilitation Act of 1973, Public Law 93-112;
29 U.S.C. 701 et seq; Public Law 93-516.

INFORMATION CONTACT

Executive Director of Research
Rehabilitation Services Administration
Office of Human Development, Office of the Secretary
Department of Health, Education, and Welfare
330 C Street, S.W.
Washington, D.C. 20201
202/245-0565

Rehabilitation Act of 1973

(As amended by Public Law 93-516)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

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TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

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- Sec. 101. State plans.
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TITLE II—RESEARCH AND TRAINING

- Sec. 200. Declaration of purpose.
- Sec. 201. Authorization of appropriations.
- Sec. 202. Research.
- Sec. 203. Training.
- Sec. 204. Reports.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

- Sec. 300. Declaration of purpose.
- Sec. 301. Grants for construction of rehabilitation facilities.
- Sec. 302. Vocational training services for handicapped individuals.
- Sec. 303. Mortgage insurance for rehabilitation facilities.
- Sec. 304. Special projects and demonstrations.
- Sec. 305. National Center for Deaf-Blind Youths and Adults.
- Sec. 306. General grant and contract requirements.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

- Sec. 400. Administration.
- Sec. 401. Program and project evaluation.
- Sec. 402. Obtaining information from Federal agencies.
- Sec. 403. Authorization of appropriations.
- Sec. 404. Reports.
- Sec. 405. Secretarial responsibility.
- Sec. 406. Sheltered workshop study.
- Sec. 407. State allocation study.

TITLE V—MISCELLANEOUS

- Sec. 500. Effect on existing laws.
- Sec. 501. Employment of handicapped individuals.
- Sec. 502. Architectural and Transportation Barriers Compliance Board.
- Sec. 503. Employment under Federal contracts.
- Sec. 504. Nondiscrimination under Federal grants.

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

- (1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;
- (2) evaluate the rehabilitation potential of handicapped individuals;
- (3) conduct a study to develop methods of providing rehabilitation services to meet the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;
- (4) assist in the construction and improvement of rehabilitation facilities;
- (5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;
- (6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past;
- (7) conduct various studies and experiments to focus on long neglected problem areas;
- (8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;
- (9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals.

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner") appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner.¹

(b) The Secretary, through the Commissioner in coordination with other appropriate programs in the Department of Health, Education, and Welfare, in carrying out research under this Act shall establish the expertise and technological competence to, and shall, in consultation with, the National Science Foundation and the National Academy of Sciences develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in section 202(b) (2).

(c) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31-42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year

¹ Amended by Public Law 93-516.

preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101(a) of this Act and its program for persons with developmental disabilities under the Development Disabilities Services and Facilities Construction Amendments of 1970: *Provided*, That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. If the Secretary finds that all such requirements are satisfied, he may approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or he may advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reduction, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsection (c) and (d) of section 101 of this Act.

DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(5) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3): *Provided*, That with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act. For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment.²

(7) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(8) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or indi-

² Last sentence added by Public Law 93-516.

vidual and the income of which is exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1954.

(9) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a) (1) shall be the Gov-

ernor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

ALLOTMENT PERCENTAGE

SEC. 8. (a) (1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than $33\frac{1}{3}$ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

AUDIT

SEC. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

NONDUPLICATION

SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are

financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act.

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b) (1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated \$650,000,000 for the fiscal year ending June 30, 1974, \$680,000,000 for the fiscal year ending June 30, 1975, and \$720,000,000 for the fiscal year ending June 30, 1976.³

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps), there is authorized to be appropriated \$37,000,000 for the fiscal year ending June 30, 1974, \$39,000,000 for the fiscal year ending June 30, 1975, and \$42,000,000 for the fiscal year ending June 30, 1976;⁴ and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph for each such fiscal year, \$1,000,000 in each such year shall be available only for the purpose of carrying out Part D of this title.

STATE PLANS

SEC. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational rehabilitation services which shall—

(1) (A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational rehabilitation services to such individuals, such agency may be

³ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

⁴ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of that State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subclause (A) of this clause) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1)(B)(i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1)(B)(ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency, and assign

responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided and (ii) the outcomes and service goals and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Secretary; and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan (including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 503);⁵

(7) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with

⁵ Parenthetical added by Public Law 93-516.

any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision;

(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(9) provide that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for vocational rehabilitation services under this Act, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept, specifying, as to those individuals who apply for services under this title and are determined not to be eligible therefor, the reasons for such determinations in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 401, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Secretary and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 102;^e

(10) provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (9) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other

^e Amended by Public Law 93-516.

programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals;

(12) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(13) (A) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons, and

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;⁷

(16) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(17) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

⁷ Amended by Public Law 93-516.

(B) the provisions of section 306 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Secretary shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction;

(18) provide satisfactory assurances to the Secretary that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational rehabilitation services; and

(19) provide satisfactory assurances to the Secretary that the continuing studies required under clause (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any provision of such plan,

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such

State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Secretary shall insure that the individualized written rehabilitation program, or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis, required by section 101(a)(9) in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual, and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b)(5) of this section, available to the individual in question.⁶

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and jointly redevelop its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 112.

(c) The Secretary shall also insure that (1) in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual, primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate, has demonstrated beyond any reasonable doubt that such individual is not then capable

⁶ Amended by Public Law 93-516.

of achieving such a goal, and (3) any such decision, as an amendment to such written program, shall be reviewed at least annually in accordance with the procedure and criteria established in this section.⁹

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, and placement services for handicapped individuals, including followup, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

⁹ Amended by Public Law 93-516.

(6) interpreter services for deaf individuals, and reader services for those individuals determined to be blind after an examination by a physician skilled in the disease of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunications, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 104. For the purpose of determining the amount of payments to States for carrying out part B of this title, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Secretary, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a) For each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under subsection (b) (1) of section 100 for

allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under subsection (b) (1) of section 100, or \$2,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) If the payment to a State under section 111(a) for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 111(a) and the amount so received by it. Payments attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c) Whenever the Secretary determines, after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

SEC. 111. (a) From each State's allotment under this part for any fiscal year (including any additional payment to it under section 110 (b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) (and its additional payment under subsection (b), if any) of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any)

by which expenditures from non-Federal sources during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

CLIENT ASSISTANCE

SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of \$11,860,000 the Secretary shall set aside up to \$1,500,000, but no less than \$500,000 for the fiscal year ending June 30, 1974, up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1975, and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act. In the event that funds so appropriated under section 304 do not exceed \$11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section.¹⁰

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) No employees of such projects shall be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility receiving assistance under this Act in the project area.

(2) Each project shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

¹⁰ Amended by Public Law 93-516.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by and with the concurrence of the State agency designated pursuant to section 101.

PART C—INNOVATION AND EXPANSION GRANTS

STATE ALLOTMENTS

SEC. 120. (a)(1) From the sums available pursuant to section 100 (b) (2) for any fiscal year for grants to States to assist them in meeting the costs described in section 121, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than \$50,000 shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than \$50,000.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sen-

tence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

SEC. 121. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending June 30, 1977.¹¹ Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

PART D—COMPREHENSIVE SERVICE NEEDS

SPECIAL STUDY

SEC. 130. (a) The Secretary shall conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe

¹¹ Amended by Public Law 93-516.

handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured of receiving the kinds of assistance necessary for them to achieve such objectives.

(b) The Secretary shall report the findings of the study, research and demonstrations directed by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than June 30, 1975.¹²

TITLE II—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to authorize Federal assistance to State and public or nonprofit agencies and organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, \$25,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$32,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph, 20 per centum and 25 per centum of the amounts appropriated in the first and second such fiscal years, respectively, and 25 per centum of the amounts appropriated in each succeeding fiscal year shall be available only for the purpose of carrying out activities under section 202(b)(2).¹³

¹² Amended by Public Law 93-516.

¹³ Authorization increased and extended through fiscal year 1976, and otherwise amended, by Public Law 93-516.

(2) For the purpose of carrying out section 203 of this title, \$27,700,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$32,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.¹⁴

(b) Funds appropriated under this title shall remain available until expended.

RESEARCH

Sec. 202. (a) The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.¹⁵

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with

¹⁴ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

¹⁵ Amended by Public Law 93-516.

public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research, to include support of spinal cord injuries projects and demonstrations established pursuant to section 303(b), which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals suffering from such disease and which will (A) insure dissemination of research findings, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

(5) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 306 shall apply to assistance provided under this section, unless the context indicates to the contrary.

TRAINING

SEC. 203. (a) The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, includ-

ing institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

REPORTS

SEC. 204. There shall be included in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to—

- (1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities;
- (2) authorize grants and contracts to assist in the provision of vocational training services to handicapped individuals;
- (3) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, including individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum vocational potential has not been reached, which experiment with new types of patterns of services or devices for the rehabilitation of handicapped individuals (including opportunities for new careers for handicapped individuals, and for other individuals in programs serving handicapped individuals) and which provide vocational rehabilitation services to handicapped migratory agricultural workers or seasonal farmworkers;

- (4) establish and operate a National Center for Deaf-Blind Youths and Adults; and
- (5) establish uniform grant and contract requirements for programs assisted under this title and certain other provisions of this Act.

GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1978.¹⁶

(b) (1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 306.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subparagraph (b) (2) of section 645 of such Act (42 U.S.C. 291o(b) (2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Secretary shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

¹⁶ Authorization extended through fiscal year 1976 and fund availability extended to fiscal year 1978 by Public Law 93-516.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976.¹⁷

(b) (1) The Secretary is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2) (A) Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed \$80 plus \$10 for each of the individual's dependents, or \$70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 101(a)(1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c) (1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects

¹⁷ Authorization extended through fiscal year 1976 by Public Law 93-516.

to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for handicapped individuals.

(b) For the purpose of this section the terms "mortgage", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The Secretary, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 306, is authorized to insure up to 100 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for handicapped individuals. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts, with and acquire for not to exceed \$100 such stock of interest in, such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section), and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed, but not including any cost covered by grants in aid under this Act or any other Federal Act.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

(c) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction, but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall by regulation prescribe.

(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. The Secretary may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section in accordance with such delegation agreement.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h)(1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Commissioner as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Rehabilitation Services Administration relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Rehabilitation Services Administration with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Commissioner may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments, and adjustments, and expense incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed \$200,000,000.

SPECIAL PROJECTS AND DEMONSTRATIONS

Sec. 304 (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1974, \$17,000,000 for the fiscal year ending June 30, 1975, and \$20,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.¹⁷

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 5 per centum in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such

¹⁷ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

subsection an amount of \$5,000,000 to be available for each such fiscal year.

(b) The Secretary, subject to the provisions of section 306, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps) including individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals or other individuals in programs servicing handicapped individuals), and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals. Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.¹⁸

(c) The Secretary, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be condi-

¹⁸ Amended by Public Law 93-516.

tioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.¹⁹

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment.

(e) (1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance (A) to rehabilitation facilities, and (B) with the concurrence of the Board established by section 502, for the purpose of removal of architectural and transportation barriers, to any public or nonprofit agency, institution, organization or facility.²⁰

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS-18, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 305. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976.²¹

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff

¹⁹ Technical amendment in Public Law 93-516.

²⁰ Amended by Public Law 93-516.

²¹ Authorization extended through fiscal year 1976 by Public Law 93-516.

facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 306, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults.

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 306. (a) The provisions of this section shall apply to all projects approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 302.

(b) To be approved, an application for assistance for a construction project, or for a project which involves construction,²² under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in the annual report to the Congress submitted under section 404;

²² Added by Public Law 93-516.

(4) be accompanied or supplemented by plans and specifications which have been approved by the Board established by section 502,²³ in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Secretary related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90-480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Secretary shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this title. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction

²³ Added by Public Law 93-516.

as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) When in any State, funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to the rehabilitation of handicapped individuals; and

(3) disseminate information relating to vocational rehabilitation services, and otherwise promote the cause of the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles I through III of this Act, and, except as otherwise provided in this Act, to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations shall be published in the Federal Register, on at least

an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural, transportation, and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

PROGRAM AND PROJECT EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 202, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of section 202, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective July 1, 1974, before funds for the programs and projects covered by this Act are released, the Secretary shall develop and publish general standards for evaluation of the programs and project

effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in subsection (b), (c), and (d) of section 101, whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976,² such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under title I, II, and III of this Act or \$1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

REPORTS

SEC. 404. Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail vocational rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of other services, and (3) include a detailed evaluation of services provided with assistance under title I of this Act, especially services to those with the most severe handicaps.

² Authorization extended through fiscal year 1976 by Public Law 93-516.

SECRETARIAL RESPONSIBILITIES

SEC. 405. (a) It shall be the function of the Secretary, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, through the Office of the Secretary, to—

(1) prepare for submission to the Congress within eighteen months after the date of enactment of this Act, a long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze on a continuing basis and include in his report submitted under section 404, a report on the results of such analysis, program operation to determine consistency with applicable provisions of law, progress toward meeting the goals and priorities set forth in the projection required under clause (1), and the effectiveness of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) encourage coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs;

(4) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education (including promotion of the development of curriculums stressing barrier free design and the adoption of such curriculums by schools of architecture, design, and engineering), health, employment, rehabilitation, architectural, housing, and transportation barriers, and other areas so as to bring about full integration of handicapped individuals into all aspects of society;

(5) provide a central clearinghouse for information and resource availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Secretary deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

(b) In selecting personnel to assist in the performance of the functions assigned in subsection (a) of this section, the Secretary shall give special emphasis to qualified handicapped individuals.

(c) The functions assigned to the Secretary by this section shall not be delegated to any persons not assigned to and operating in the Office of the Secretary, except that he may establish an Office for Handicapped Individuals in the office of an appropriate Assistant Secretary of the Department of Health, Education, and Welfare to carry out such functions.²⁵ In no event shall any functions under this section be further delegated to any persons with operational responsibilities for carrying out functions authorized under any other section of this Act or under any other provision of law designed to benefit handicapped individuals.

(d) There are authorized to be appropriated for carrying out this section \$500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$600,000 for the fiscal year ending June 30, 1976.²⁶

(e) Not later than thirty days after the appropriation Act containing sums for carrying out the provisions of this Act is enacted for each fiscal year, the Secretary shall set aside out of sums available to carry out this section or otherwise available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section and shall notify the appropriate committees of the Congress of the amount so set aside, the number of personnel necessary for such purpose, and the basis for his determination under this subsection and his reasons therefor.

SHELTERED WORKSHOP STUDY

SEC. 406. (a) The Secretary shall conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within twenty-four months after the date of enactment of this Act.

STATE ALLOCATION STUDY

SEC. 407. (a) The Secretary shall conduct a thorough study of the allotment of funds among the States for grants for basic vocational

²⁵ Amended by Public Law 93-516.

²⁶ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

rehabilitation services authorized under part B of title I of this Act, including a consideration of—

(1) the needs of individuals requiring vocational rehabilitation services;

(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

(3) the continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act.

(b) Not later than June 30, 1974, the Secretary shall report to the Congress his findings and recommendations, including recommendations for additional legislation, with respect to the study required by this section, which report shall include recommendations with respect to allotment of Federal funds among the States and the Federal share of the cost of furnishing vocational rehabilitation services by the States.

TITLE V—MISCELLANEOUS

EFFECT ON EXISTING LAW

SEC. 500. (a) The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1973. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(b) The authorizations of appropriations in the Vocational Rehabilitation Act are hereby extended at the level specified for the fiscal year 1972 for the fiscal year 1973.

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 501. (a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission shall serve as co-chair-

men of the Committee. The resources of the President's Committees on Employment of the Handicapped and on Mental Retardation shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of handicapped individuals, and to review, on a periodic basis, in cooperation with the Civil Service Commission, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals, by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and (2) to consult with the Civil Service Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Civil Service Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Civil Service Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Commission) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Civil Service Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for handicapped individuals.

(c) The Civil Service Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Civil Service Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Civil Service Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the Civil Service Commission's activities under subsection (b) and (c) of this section.

(e) An individual who, as a part of his individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leaves, unemployment compensation, and Federal employee benefits.

(f) (1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

- (1) Department of Health, Education, and Welfare;
- (2) Department of Transportation;
- (3) Department of Housing and Urban Development;
- (4) Department of Labor;
- (5) Department of the Interior;
- (6) Department of Defense;²⁷
- (7) General Services Administration;
- (8) Veterans' Administration.

The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90-480), as amended by the Act of March 5, 1970 (Public Law 91-205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use

²⁷ Added by Public Law 93-516.

of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make to the President and to Congress reports which shall describe in detail the results to its investigations under clauses (2) and (3) of this subsection; and (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection.

(c) The Board shall also (1) (A) determine how and to what extent transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of handicapped individuals; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems and (B) to make housing available and accessible to handicapped individuals or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for handicapped individuals, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(d) In carrying out its functions under this Act, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). The provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts cited in subsection (b) of this section.²⁸

(e) There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act.²⁹ The Board is authorized to appoint

²⁸ Added by Public Law 93-510.

²⁹ Added by Public Law 93-510.

as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(f) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate, for a person employed as a GS-18 under section 5332 of title 45, United States Code, including traveltime, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(g) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (5) and (6) of subsection (b) of this section. The Board shall prepare two final reports of its activities under subsection (c). One such report shall be on its activities in the field of transportation barriers to handicapped individuals, and the other such report shall be on its activities in the field of the housing needs of handicapped individuals. The Board shall, not later than September 30, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after the date of enactment of this Act.³⁰

(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section \$1,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$1,500,000 for the fiscal year ending June 30, 1976.³¹

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 503. (a) Any contract in excess of \$2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 7(6). The provisions of this section shall apply to any subcontract in excess

³⁰ Amended by Public Law 93-516.

³¹ Authorization increased and extended through fiscal year 1976 by Public Law 93-516.

of \$2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which he shall prescribe, when he determines that special circumstances in the national interest so require and states in writing his reasons for such determination.

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Religion



**Office of Human Development
and Social and Rehabilitation
Service**



Implementation Provisions



DEPARTMENT OF
HEALTH
EDUCATION AND
WELFARE

Office of Human Development
and Family Services

NATIONAL
HEALTH SERVICE
PROGRAM

Washington, D.C.

101-1010101

Title 45—Public Welfare

CHAPTER IV—SOCIAL AND REHABILITATION SERVICE (REHABILITATION PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 401—THE STATE VOCATIONAL REHABILITATION PROGRAM

PART 402—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

Revocation

CROSS REFERENCE: For a document revoking Parts 401 and 402 of Title 45 CFR, see FR Doc. 75-31646, also appearing in Part III of this issue.

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT (REHABILITATION PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1361—THE STATE VOCATIONAL REHABILITATION PROGRAM

PART 1362—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

Vocational Rehabilitation Programs; Implementation Provisions

In the FEDERAL REGISTER of March 17, 1975 (40 FR 12107) a notice of proposed rule making was published covering newly authorized provisions under Title I of the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516); and clarifying certain regulatory provisions included in the regulations governing the Rehabilitation Act of 1973, as published in the FEDERAL REGISTER of December 5, 1974.

The newly authorized statutory provisions of the Rehabilitation Act Amendments of 1974 relate to both the State vocational rehabilitation agency service programs under the State plans for vocational rehabilitation services which were covered under Part 401 of the proposed regulations and the special purpose discretionary grant activities in vocational rehabilitation which were included under Part 402.

Part 401 was revised under the proposed regulations to provide for a review of the ineligibility decision concerning those persons who have applied unsuccessfully to State vocational rehabilitation agencies for vocational rehabilitation services. Regulatory revisions were also proposed to strengthen affirmative action programming for the employment and career advancement of handicapped persons in State vocational rehabilitation agencies and in rehabilitation facilities receiving assistance under State plans for vocational rehabilitation services, and to provide an alternative definition of the term "handicapped individual" in order to extend the applicability of the provisions of Title IV and Title V of the Act to handicapped persons in addition to those who are clients of State vocational rehabilitation agencies.

Revisions were also made to both Part 401 and Part 402 of the regulations to clarify the responsibility of the Commissioner of the Rehabilitation Services Administration for the administration of the public vocational rehabilitation pro-

gram. The Rehabilitation Services Administration is the principal agency within the Department of Health, Education, and Welfare for carrying out the programs authorized under Titles I, II, and III of the Rehabilitation Act of 1973, as amended, and the Commissioner is the principal officer of the Rehabilitation Services Administration.

Part 402, in addition, was amended to include regulatory provisions for a newly authorized discretionary grant program for the support of special projects and demonstrations designed for operating programs to demonstrate methods of making recreational activities fully accessible to the handicapped.

Certain clarifying revisions in previously published regulations for the Rehabilitation Act of 1973 were also proposed. Among these proposed revisions was a clarification of the distinction between a medical evaluation of a handicapped individual's auditory system and an audiological evaluation of such an individual's hearing and possible hearing loss. These evaluations constitute an element within the thorough diagnostic study—that part of the evaluation of rehabilitation potential which is provided by State vocational rehabilitation agencies to determine which vocational rehabilitation services are necessary in order to assist a handicapped individual to achieve a vocational objective. A related additional regulatory clarification provided that when a hearing aid has been recommended for a State vocational rehabilitation agency client on the basis of a thorough diagnostic study, the hearing aid is to be fitted in accordance with the findings of the study.

The notice of proposed rule making provided for the submittal of comments, suggestions, or objections within a period of 45 days ending May 1, 1975. Comments received were carefully considered and revisions to the proposed regulations were made on the basis of these comments.

Forty-nine letters were received during the public comment period. Relatively few of the public comments were concerned directly with provisions newly authorized under Title I of the Rehabilitation Act Amendments of 1974. The overwhelming majority of the comments focused on the clarifying provisions concerning the special evaluations conducted within the thorough diagnostic study for State vocational rehabilitation agency clients who are blind or who have hearing disorders, and the provision of hearing aids to such individuals on the basis of the thorough diagnostic study.

The most significant areas of comment on the proposed regulations and the conclusions reached after review of the comments are as follows:

1. Concern was expressed relative to the definition of "handicapped individual" in § 401.1(k). It was noted, for example, that the previously published definition now in effect to describe State vocational rehabilitation agency clients appeared to be more limited in scope than the statutory definition in that it eliminated any reference to the State agency ability to determine a reasonable

expectation that the provision of vocational rehabilitation services would be of benefit to an individual in terms of his employability. Another expressed concern was that the alternative definition, added under § 401.1(k)(2) of the proposed regulations in order to extend the coverage of Title IV and Title V of the Act beyond State vocational rehabilitation agency clients, was too vague to be meaningful and needed total revision if an adequate level of precision were to be reflected. Still another comment was that the addition of an alternative definition in itself was confusing and it was suggested that effort be made to combine all relevant attributes of a "handicapped individual" into a single definition.

The proposed definition of "handicapped individual" was reviewed in response to these stated concerns. It appears clear that the regulatory definition implementing the Rehabilitation Act of 1973 and intended to refer to State vocational rehabilitation agency clients and those handicapped persons who have been accepted by State vocational rehabilitation agencies for an extended evaluation of rehabilitation potential is slightly more restrictive than the statutory definition under Section 7(6) of the Act. The definition in § 401.1(k)(1) has been revised, therefore, to reflect a State agency determination that there is a reasonable expectation that vocational rehabilitation services will be of benefit to an individual who has been accepted for such services.

The alternative definition of "handicapped individual" under § 401.1(k)(2) of the proposed regulations was also reviewed. This definition was added by the Rehabilitation Act Amendments of 1974 to ensure that the applicability of certain authorities included under Title IV and Title V of the Rehabilitation Act of 1973 might be extended beyond State vocational rehabilitation agency clients and become applicable to all individuals in the population who have physical or mental impairments. Under the Rehabilitation Act of 1973, prior to its amendment by the Rehabilitation Act Amendments of 1974, the term "handicapped individual" had referred only to State vocational rehabilitation agency clients and individuals accepted for service by a State vocational rehabilitation agency under an extended evaluation of rehabilitation potential. Although it is agreed that the alternative definition of "handicapped individual" is not so precise as it might be, further revision seems unnecessary since the specific purpose of the definition is to distinguish State vocational rehabilitation agency clients from other handicapped persons for purposes of assuring that the affirmative action and nondiscrimination provisions of the Rehabilitation Act of 1973 will become fully effective. In view of the limited purpose of the proposed alternative definition, therefore, its usefulness seems assured and additional revision does not appear to be necessary.

Insofar as the need for the alternative definition is concerned, it is clear that so long as the term "handicapped individual" is used in the Rehabilitation Act

of 1973, and amendments thereto, to refer to handicapped persons who are State vocational rehabilitation agency clients as well as to handicapped persons in the general population who have no ongoing relationship with a State vocational rehabilitation agency, separate regulatory definitions will be necessary to identify the distinctions in the requirements affecting these groups.

2. Comments were also received concerning the use of the phrase "appropriate State agency staff member" in § 401.37 of the proposed regulations and elsewhere in the regulations for Rehabilitation Act of 1973 which are presently in effect. It was requested that reference to the "rehabilitation counselor" be substituted for the reference to the "appropriate State agency representative" since a rehabilitation counselor is felt to be most likely to be the State agency representative involved in direct communication with clients. It was also suggested that the reference be further revised to limit its applicability to a "certified" rehabilitation counselor and demonstrate support for the national effort presently under way for the certification of rehabilitation counselors under the sponsorship of the Commission on Rehabilitation Counselor Certification.

In response it is noted that regulations for State vocational rehabilitation service programs are intended primarily to define State vocational rehabilitation agency responsibilities affecting the provision of services to handicapped individuals under State plans. Accountability for the conduct of State agency responsibilities is assigned within each agency in the manner determined most appropriate by that agency. Insofar as the State agency signature on a certification of ineligibility under § 401.37 is concerned, therefore, it is highly possible that a State vocational rehabilitation agency staff person, other than one with a job title of "rehabilitation counselor" may be designated as the appropriate person to sign or countersign on behalf of the State agency. For this reason, a requirement that a "rehabilitation counselor" be identified as the individual designated in all State agencies throughout the country to sign certificates of ineligibility is considered to be inappropriate.

The effort presently being undertaken for the certification of rehabilitation counselors is, of course, an important step in assuring a high level of professional competence in the rehabilitation counseling field. The regulations covering vocational rehabilitation programs and activities, however, are directly concerned with individual practitioners—whether licensed or certified—only when such practitioners are not employees of the State agency but are to be utilized by the State agency as providers of service to State agency clients. Federal regulations do not specifically deal with such matters when the practitioners are State agency employees. Under Section 101(a) of the Act, the establishment of qualifications for the employment of State agency personnel is set forth as a responsibility of each State agency under

its own State plan for vocational rehabilitation services. In view of this statutory requirement, there does not appear to be authority for Federal regulations to require that a State vocational rehabilitation agency establish a State plan requirement that could limit employment to those counselors who have been certified.

3. An additional area of comment concerned the establishment of the Federal matching rate when activities involving the renovation or construction of facilities are included within projects authorized under Section 304(b)(3) of the Act for special projects and demonstrations to demonstrate methods of making recreational facilities accessible to the handicapped. It was requested that a single rate of Federal financial participation be clearly established to cover the full range of project activities.

In response it is noted that prior to the enactment of the Rehabilitation Act Amendments of 1974, new construction was authorized under Title I and Title III of the Rehabilitation Act of 1973 only for the construction of rehabilitation facilities. Under Section 7(5) of the Act, the Federal financial participation in the cost of these construction activities was established at the same percentage which is applicable in any State as authorized under the Hill-Burton formula defined in the Public Health Service Act. Furthermore, Section 306(b) of the Act requires that certain common provisions be applied in all projects under Title III of the Act in which construction is involved.

In view of the apparent intent that there be consistency in projects in which new construction is involved under the Rehabilitation Act of 1973, at least insofar as rehabilitation facilities are concerned, the proposed regulations for the Rehabilitation Act Amendments of 1974 relied on the Hill-Burton formula to govern Federal financial participation in the cost of new construction undertaken within projects for operating programs to demonstrate methods of making recreational facilities fully accessible to the handicapped. The Federal share in the cost of any project activities other than the construction or renovation of a facility, however, was to be 90 percent.

In reviewing the proposed regulation, it is clear that Section 304(b)(3) is intended to authorize the support of special projects and demonstrations within which activities of unusual interest might be undertaken. This authority is not only not directly related to those grant authorities designed primarily to support the construction or renovation of rehabilitation facilities but it is also evident that a recreational facility is not fully comparable to a rehabilitation facility. As an integrated special purpose project activity within which construction costs may be included, the establishment of a special matching rate for different types of project activities seems unjustified. The regulation has been revised, therefore, to reflect a single Federal matching rate for all project activities approved under Section 304(b) and to more closely reflect the statutory in-

tent concerning the support of special projects and demonstrations in rehabilitation.

4. In terms of the number of comments received, the public comment was for the most part concerned specifically with the clarifying regulatory revisions covering evaluative procedures within a thorough diagnostic study of handicapped individuals who are blind or who have hearing disorders, and the requirements relating to the role of certain practitioners in the conduct of evaluations of hearing and the provision of hearing assistance services.

Intensive dialogue on this matter was initiated with the publication of proposed regulations for the Rehabilitation Act of 1973 in May of 1974 and has continued since that time. The dialogue has focused primarily on the service delivery responsibilities of the physician, the audiologist, and the hearing aid specialist in the evaluation of hearing and possible hearing loss of certain State vocational rehabilitation agency clients and has reflected the sensitive relationships between the concerned practitioners. Because the publication of regulations for State vocational rehabilitation agency service programs has provided an opportunity for the continued articulation of opposing points of view concerning practitioner roles, the public rehabilitation program has become involved in the controversy even though these practitioner relationships are not of major significance to the overwhelming majority of the physically and mentally disabled served by State vocational rehabilitation agencies.

In response to the earlier discussions concerning vocational rehabilitation regulations, revisions were made in the proposed regulations to § 401.35(c) and § 401.35(d) concerning the thorough diagnostic study of blind individuals and individuals with hearing loss. Under the proposed revision of regulations a distinction was made between a medical evaluation of a handicapped individual's auditory system and an audiological evaluation of such an individual's hearing and possible hearing loss. The evaluation of the auditory system, as a medical procedure, is to be performed by a physician skilled in diseases of the ear. The hearing evaluation is to be performed either by a physician skilled in diseases of the ear or by an audiologist who is licensed or certified under State laws or regulations.

In the case of an individual who is blind, under the proposed revision to § 401.35(c), an initial audiological examination of hearing conducted by a physician skilled in diseases of the ear or by an audiologist was to be followed by a medical evaluation of the auditory system in those cases where a hearing impairment was found to exist. In the case of an individual for whom a hearing disorder was a primary disability under the revised proposed § 401.35(d), a medical evaluation of the auditory system was to be conducted initially by a physician skilled in diseases of the ear and was to be followed by a hearing evaluation which might be performed, as deter-

mined by the physician, by either the physician himself or by an audiologist.

The public comments on these proposed requirements were concerned primarily with the definition of practitioner role and were generally representing two dissimilar groups of opinion. One group of comments maintained that the performance of a hearing evaluation by a physician skilled in diseases of the ear was inappropriate since few physicians are accustomed to performing such evaluations. It was recommended, therefore, that a hearing evaluation by a professional audiologist be a mandatory requirement in vocational rehabilitation. It was feared that unless an evaluation by an audiologist were required in each case, a client might be referred directly from a physician to a hearing aid dealer who was not considered to be qualified to perform an adequate evaluation of hearing loss.

Another group of comments, on the other hand, recommended that only physicians skilled in diseases of the ear be authorized to perform audiological examinations. These comments objected to the attempt to distinguish within the regulations an evaluation of the auditory system from a hearing evaluation on the basis that a hearing evaluation constitutes a basic element within an evaluation of the auditory system. From this perspective, any regulatory reference to an audiologist was perceived to be unwise since the proposed regulation appeared to equate the role of the professional audiologist with that of the physician skilled in the diseases of the ear.

Both groups of comments agreed, however, that the reference to an evaluation of the auditory system in the case of blind individuals under § 401.35(c) was unnecessary since this procedure was fully covered in § 401.35(d).

In response to the public comment, it is noted that § 401.35 refers to the comprehensive diagnostic study which is conducted within an evaluation of rehabilitation potential to determine those vocational rehabilitation services of most benefit to a handicapped person accepted for service by a State vocational rehabilitation agency. This comprehensive diagnostic study consists of an evaluation of all pertinent medical, psychological, vocational, educational and related factors which bear on an individual's handicap to employment. In those cases where a medical evaluation of the auditory system or a hearing evaluation is performed, the evaluations are elements within the comprehensive clinical evaluation and are not designed specifically to determine whether the handicapped individual is in need of a hearing aid.

The comprehensive diagnostic study in the vocational rehabilitation process is conducted after a preliminary diagnostic study has taken place to determine a disabled individual's eligibility for vocational services. The preliminary diagnostic study includes a medical evaluation and any referral of an individual for an evaluation of his auditory system or an evaluation of possible hearing loss under

§ 401.35 and is based on the findings of the earlier general medical evaluation and the recommendations made to the State vocational rehabilitation agency.

The distinction between an evaluation of the auditory system and a hearing evaluation is believed to be appropriate for purposes of the thorough diagnostic study of handicapped clients being provided services within the public rehabilitation program. The evaluation of the auditory system by a physician skilled in diseases of the ear focuses on the signs and symptoms of hearing loss in order to determine the pathogenesis of the hearing loss and the medical and other courses of action which might provide alleviation. The hearing evaluation, on the other hand, is concerned primarily with a measurement of the characteristics of the individual's hearing loss and a measurement of the effectiveness of sensory devices in alleviating the effects of hearing loss.

In the case of a client who is blind, however, it is noted that a routine complete hearing evaluation is not necessary since less comprehensive testing can determine whether there is a condition of impaired hearing. In such cases an initial screening for hearing loss is considered to be sufficient and the regulation has been revised to include a more limited requirement for general audiological screening rather than a complete hearing evaluation of blind persons. This screening will be sufficient to assist State vocational rehabilitation agencies to plan orientation and mobility training and other appropriate vocational rehabilitation services.

The reference to professional audiologists in the performance of hearing evaluations has been retained with the vocational rehabilitation regulations, and State laws or regulations continue to be the basis under which an audiologist participates in an evaluation of hearing loss within a thorough diagnostic study.

The role of the professional audiologist is complementary to that of the physician in the evaluation of hearing loss. Professional audiologists are considered to be uniquely qualified by training and experience to perform evaluations of hearing loss. In order to meet the qualifications for clinical certification and licensure, audiologists must have had extensive training and experience in the areas of: (1) Pathology and assessment of auditory disorders; (2) habilitative and rehabilitative procedure, including selection and use of appropriate amplification; (3) conservation of hearing; and (4) instrumentation, including characteristics of electronic equipment and calibration techniques. It seems clear that professional audiologists may properly perform screenings for hearing loss and hearing evaluations for clients of State vocational rehabilitation agencies.

It is similarly clear that in those cases where a physician skilled in diseases of the ear is accustomed to performing an evaluation of hearing loss, it is appropriate for him to continue to perform such evaluations. A mandatory evaluation

by a professional audiologist in each case is not considered to be either necessary or feasible.

Any evaluative procedure performed within a thorough diagnostic study is authorized by the State vocational rehabilitation agency. Referral of a client to either a physician skilled in the diseases of the ear, an audiologist, a hearing aid dealer, or any other provider of a vocational rehabilitation service, is made only by the State vocational rehabilitation agency.

Under the proposed regulation, a medical evaluation of the auditory system was required to be performed for a blind individual when a hearing impairment was determined to exist. In view of the fact that the requirement is also covered in § 401.35(d), it has been deleted from § 401.35(c).

It is also noted that under § 401.43 of the regulations governing the Rehabilitation Act of 1973, standards for providers of vocational rehabilitation services who are utilized by the State vocational rehabilitation agencies are established by the State agencies. It is the responsibility of each State vocational rehabilitation agency, therefore, to establish standards for the use of physicians skilled in diseases of the ear, professional audiologists, hearing aid dealers, and any other practitioners utilized in the State's vocational rehabilitation program.

The provision of hearing aids was covered in § 401.40(b) of the proposed regulations. Under this requirement hearing aids are to be provided on the basis of the findings of the thorough diagnostic study performed under § 401.35. Since the specific purpose of the thorough diagnostic study is to determine which vocational rehabilitation services are necessary to assist a handicapped individual to achieve a vocational goal, it is appropriate that services such as hearing aids be provided in accordance with the findings derived from this study. This requirement has therefore not been revised.

The Secretary of Health, Education, and Welfare established an Intradepartmental Task Force on Hearing Aids to examine a number of issues involved in hearing health care services. Specific recommendations of the Task Force are included in the "Final Report to the Secretary on Hearing Aid Health Care" which was released on September 29, 1975. The recommendations of the Task Force will be carefully reviewed for consistency with the regulations for vocational rehabilitation programs and activities. Additional revisions to the vocational rehabilitation regulations will be considered if necessary to ensure overall consistency with Departmental policy.

Federal financial assistance extended under this chapter is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964

(U.S.C. 2000(d)). Federal financial assistance is also subject to the provisions of section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794) and any regulations issued pursuant thereto concerning the nondiscrimination of handicapped persons in any program or activity receiving Federal financial assistance.

Guideline material is currently being issued by the Commissioner of the Rehabilitation Services Administration to provide additional information and technical assistance necessary to assure full implementation of rehabilitation programs in conformity with the Act and the regulations.

It is also noted that the regulations for vocational rehabilitation programs and activities have been removed from Chapter IV of Title 45 of the Code of Federal Regulations and relocated in Chapter XIII which will cover all programs administered by the Office of Human Development within the Department of Health, Education, and Welfare. Regulations covering the State plans for vocational rehabilitation services, formerly published in Part 401, are now found in Part 1361. Regulations for discretionary project grants in vocational rehabilitation have been transferred from Part 402 to Part 1362. It will be necessary therefore for State vocational rehabilitation agencies and other rehabilitation agencies to revise previously published State policy materials which include citations to Federal vocational rehabilitative regulations in order to conform with the revised organization of the Code of Federal Regulations.

Accordingly, the regulations as revised are hereby adopted.

Chapter IV of Title 45 of the Code of Federal Regulations is revised by revoking Part 401 and Part 402, and Chapter XIII of Title 45 of the Code of Federal Regulations is amended by adding Part 1361 and Part 1362, as follows:

Subpart A—Definitions

Sec.
1361.1 **Terms.**

Subpart B—State Plans for Vocational Rehabilitation Services

STATE PLAN CONTENT: ADMINISTRATION

1361.2 The State plan: general requirements.
1361.3 Review of State plan by Governor.
1361.4 State plan submittal and approval.
1361.5 Withholding of funds.
1361.6 State agency for administration.
1361.7 Organization of the State agency.
1361.8 State administrator.
1361.9 Local administration.
1361.10 Methods of administration.
1361.11 Shared funding and administration of special joint projects or programs.
1361.12 Waiver of Statewideness.
1361.13 Cooperative programs utilizing third party funds.
1361.14 Staffing of the State agency.
1361.15 Standards of personnel administration.
1361.16 Staff development.
1361.17 Political activity.
1361.18 State agency studies and evaluations.
1361.19 Policy development consultation.

Sec.
1361.20 Cooperation with other public agencies.
1361.21 Reports.
1361.22 Nondiscrimination in employment under construction contracts.
1361.23 General administrative and fiscal requirements.

STATE PLAN CONTENT: PROVISION AND SCOPE OF SERVICES

1361.30 Processing referrals and applications.
1361.31 Order of selection for services.
1361.32 Services to civil employees of the United States.
1361.33 Eligibility.
1361.34 Evaluation of rehabilitation potential: Preliminary diagnostic study.
1361.35 Evaluation of rehabilitation potential: Thorough diagnostic study.
1361.36 Extended evaluation to determine rehabilitation potential.
1361.37 Certification: Eligibility, extended evaluation to determine rehabilitation potential: Ineligibility.
1361.38 The case record for the individual.
1361.39 The individualized written rehabilitation program.
1361.40 Scope of agency program: Vocational rehabilitation services for individuals.
1361.41 Individuals determined to be rehabilitated.
1361.42 Authorization of services.
1361.43 Standards for facilities and providers of services.
1361.44 Rates of payment.
1361.45 Participation by handicapped individuals in the costs of vocational rehabilitation services.
1361.46 Administrative review of agency action, and fair hearings.
1361.47 Confidential information.
1361.48 Scope of agency program: Management services and supervision for small business enterprises for the most severely handicapped.
1361.49 Scope of agency program: Establishment of rehabilitation facilities.
1361.50 Scope of agency program: Construction of rehabilitation facilities.
1361.51 Scope of agency program: Facilities and services for groups of handicapped individuals.
1361.52 Utilization of community facilities.
1361.53 Periodic review of extended employment in rehabilitation facilities.

Subpart C—Financing of State Vocational Rehabilitation

FEDERAL FINANCIAL PARTICIPATION

1361.70 Effect of State rules.
1361.71 Vocational rehabilitation services to individuals.
1361.72 Management services and supervision for small business enterprises for the most severely handicapped individuals.
1361.73 Establishment of rehabilitation facilities.
1361.74 Construction of rehabilitation facilities.
1361.75 Facilities and services for groups of handicapped individuals.
1361.76 Administration.
1361.77 Purchase of goods, facilities, or services from other agencies of the State.
1361.78 Insurance and taxes.
1361.79 Cost of space.
1361.80 State and local funds.

Sec.
1361.81 Shared funding and administration of joint projects or programs.
1361.82 Waiver of Statewideness.

ALLOTMENT AND PAYMENT

1361.85 Allotment of Federal funds for vocational rehabilitation services.
1361.86 Payments from allotments for vocational rehabilitation services.
1361.87 Methods of computing and making payments.
1361.88 Effects of payments.
1361.89 Refunds.
1361.90 Determining to which fiscal year an expenditure is chargeable.
1361.91 Audits.
1361.92 Appeals procedures and expenditures settlement.

Subpart D—Payment of Costs of Vocational Rehabilitation Services for Disability Beneficiaries From the Social Security Trust Funds

1361.110 General.
1361.111 Purpose.
1361.112 Applicability of other regulations.
1361.113 Definitions.
1361.114 State plan requirements.
1361.115 Conditions and limitations.
1361.116 Payments.
1361.117 Budgets.
1361.118 Reports.

Subpart E—Vocational Rehabilitation Services for Supplemental Security Income Recipients

1361.120 General.
1361.121 Purpose.
1361.122 Applicability of other regulations.
1361.123 Definitions.
1361.124 State plan requirements.
1361.125 Conditions and limitations.
1361.126 Payments of supplemental security income program funds.
1361.127 Budgets.
1361.128 Reports.

Subpart F—Grants for Innovation and Expansion of Vocational Rehabilitation Services

1361.150 Purpose.
1361.151 Special project requirements.
1361.152 Allotment of Federal funds.
1361.153 Payments from allotments.
1361.154 Methods of computing and making payments.
1361.155 Federal financial participation.
1361.156 Matching requirements.
1361.157 Other administrative requirements.
1361.158 Reports.

AUTHORITY: Sec. 400(b), 87 Stat. 386 (29 U.S.C. 780(b)); and sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Definitions

§ 1361.1 Terms.

Unless otherwise indicated in this part, the terms below are defined as follows:
(a) "Act" means the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).
(b) "Blind" means persons who are blind within the meaning of the law relating to vocational rehabilitation in each State.

(c) "Construction of a rehabilitation facility" means:
(1) The construction of new buildings, the acquisition of existing buildings, or the expansion, remodeling, alteration or renovation of existing buildings which are to be utilized for rehabilitation facility purposes; or
(2) The acquisition of initial equipment of such new, newly acquired, newly

expanded, newly remodeled, newly altered, or newly renovated buildings.

(d) "Criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in the act, omission or possession was legally incapable of committing a crime.

(e) "Department" means the Department of Health, Education, and Welfare.

(f) "Eligible" or "eligibility" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

(1) The individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(2) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(g) "Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(h) "Establishment of a rehabilitation facility" means:

(1) The acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for rehabilitation facility purposes;

(2) The acquisition of initial equipment for such buildings for such purposes; or

(3) The initial staffing of a rehabilitation facility, for a period not to exceed 4 years and 3 months.

(i) "Evaluation of rehabilitation potential" means, as appropriate, in each case:

(1) A preliminary diagnostic study to determine: (i) That an individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and (ii) that vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, and that the individual is eligible therefore for vocational rehabilitation services;

(2) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential, and an appraisal of the individual's work behavior and ability to develop work patterns suitable for successful job performance in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability;

(3) Any other goods or services provided for the purpose of ascertaining the

nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability;

(4) Referral;

(5) The provision of vocational rehabilitation services to an individual for a total period of extended evaluation not in excess of 18 months for the purpose of determining whether such individual is a handicapped individual for whom a vocational goal is feasible, including the initiation and continuing development of an individualized written rehabilitation program, and a periodic assessment of the results of the provision of such services to ascertain whether an individual is an eligible individual for whom a vocational goal is feasible.

(j) "Family member" or "member of the family" means any relative by blood or marriage of a handicapped individual and other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(k) (1) "Handicapped individual," except as provided in paragraph (b) (2) of this section, means an individual

(i) Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(ii) Who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

(2) "Handicapped individual," for purposes of § 1361.15(c), § 1361.49(e), § 1361.49(f), § 1361.50(g), § 1361.50(h), § 1361.25, § 1361.26, and § 1361.29, means an individual

(i) Who has a physical or mental impairment which substantially limits one or more of his major life activities;

(ii) Who has a record of such an impairment; or

(iii) Who is regarded as having such an impairment.

(l) "Local agency," except where the context indicates otherwise, means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the State agency to conduct a vocational rehabilitation program in the locality under the supervision of such State agency in accordance with the State plan.

(m) "Maintenance" means payments, not exceeding the estimated cost of subsistence and provided at any time from the date of initiation of vocational rehabilitation services through the provision of post-employment services, to cover a handicapped individual's basic living expenses, such as food, shelter, clothing, and other subsistence expenses necessary to derive the full benefit of other vocational rehabilitation services being provided in order to achieve such

individual's vocational rehabilitation objective or to enable an extended evaluation of such individual's rehabilitation potential.

(n) "Management services and supervision" for small business enterprises includes inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve small business enterprises operated by severely handicapped individuals. "Management services and supervision" does not include those services or costs which pertain to the ongoing operation of the individual business enterprise after the initial establishment period.

(o) "Nonprofit," as applied to a rehabilitation facility, agency or organization, means a rehabilitation facility, agency, or organization owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954.

(p) "Occupational license" means any license, permit or other written authority required by a State, city or other governmental unit to be obtained in order to enter an occupation or enter a small business.

(q) "Outcome and service goals" means those objectives, established by the State agency and consistent with those set by the Commissioner in his instructions with respect to the annual State plan, which are measurable in terms of service expansion or program improvement in specified program areas, and which the State agency plans to achieve during a specified period of time.

(r) "Physical and mental restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive, and includes:

(1) Medical or corrective surgical treatment;

(2) Diagnosis and treatment for mental or emotional disorders by a physician skilled in the diagnosis and treatment of such disorders or by a psychologist licensed or certified in accordance with State laws and regulations;

(3) Dentistry;

(4) Nursing services;

(5) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(6) Convalescent or nursing home care;

(7) Drugs and supplies;

(8) Prosthetic, orthotic or other assistive devices essential to obtaining or retaining employment;

(9) Eyeglasses and visual services;

(10) Podiatry;

(11) Physical therapy;

(12) Occupational therapy;

(13) Speech or hearing therapy;

- (14) Psychological services;
- (15) Medical or medically related social work services;
- (16) Treatment of either acute or chronic medical complications and emergencies which are associated with or arise out of the provision of physical and mental restoration services; or are inherent in the condition under treatment;
- (17) Special services for the treatment of individuals suffering from end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and
- (18) Other medical or medically related rehabilitation services. (The provision that the condition is stable or slowly progressive does not apply when physical and mental restoration services are provided under an extended evaluation of rehabilitation potential.)
- (s) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning.
- (t) "Public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to:
 - (1) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces;
 - (2) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;
 - (3) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, parolees;
 - (4) Firefighting, fire prevention, or emergency rescue missions.
- (u) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals:
 - (1) Vocational rehabilitation services which shall include under one management, medical, psychological, social, and vocational services;
 - (2) Testing, fitting, or training in the use of prosthetic and orthotic devices;
 - (3) Prevocational conditioning or recreational therapy;
 - (4) Physical and occupational therapy;
 - (5) Speech and hearing therapy;
 - (6) Psychological and social services;
 - (7) Evaluation of rehabilitation potential;
 - (8) Personal and work adjustment;
 - (9) Vocational training with a view toward career advancement (in combination with other rehabilitation services);
 - (10) Evaluation or control of specific disabilities;

- (11) Orientation and mobility services and other adjustment services to the blind; and
- (12) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market: *Provided*, That all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.
- (v) "Secretary," except when the context indicates otherwise, means the Secretary of Health, Education, and Welfare.
- (w) "Severely handicapped individual" means a handicapped individual,
 - (1) Who has a severe physical or mental disability which seriously limits his functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and
 - (2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time, and
 - (3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, and end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.
- (x) "Small business enterprise" means a small business operated by severely handicapped individuals under the management and supervision of the State agency or its nominee. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the most effective utilization of the skills and aptitudes of severely handicapped individuals, and provide gainful employment or self-employment commensurate with the time devoted by the operator or operators to the business, the cost of establishing the business, and other factors of an economic nature.
- (y) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.
- (z) "State agency" or "State vocational rehabilitation agency" means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the sole State agency with respect to that part of the plan relating to the vocational rehabilitation of the blind. For

purpose of American Samoa, the term means the Governor of American Samoa and for purpose of the Trust Territory of the Pacific Islands, the term means the High Commissioner of the Trust Territory of the Pacific Islands.

(aa) "State plan" means the annual State plan for vocational rehabilitation services, or the vocational rehabilitation services part of a consolidated rehabilitation plan, which includes the annual State plan for vocational rehabilitation services and the State's plan for its program for persons with developmental disabilities developed under the Developmental Disabilities Services and Facilities Construction Act.

(bb) "Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

(cc) "Transportation" means necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting handicapped individuals and their attendants or escorts for the purpose of providing vocational rehabilitation services under the State plan and may include relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

(dd) "Visual services" means visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, as prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.

(ee) (1) "Vocational rehabilitation services," when provided to an individual, means:

(i) Evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided;

(ii) Counseling, guidance, and referral services;

(iii) Physical and mental restoration services;

(iv) Vocational and other training services, including personal and vocational adjustment, books, tools, and other materials;

(v) Maintenance;

(vi) Transportation;

(vii) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(viii) Interpreter services for the deaf;

(ix) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(x) Telecommunications, sensory, and other technological aids and devices;

(xi) Recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate public service employment;

(xii) Placement in suitable employment;

(xiii) Post-employment services necessary to assist handicapped individuals to maintain suitable employment;

(xiv) Occupational licenses, tools, equipment, and initial stocks and supplies; and

(xv) Such other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability.

(2) "Vocational rehabilitation services," when provided for the benefit of groups of individuals, also includes:

(i) In the case of any type of small business enterprise operated by individuals with the most severe handicaps under the supervision of the State agency, management services, and supervision and acquisition of vending facilities or other equipment and initial stocks and supplies;

(ii) The establishment of rehabilitation facility;

(iii) The construction of a rehabilitation facility; and

(iv) The provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual.

(ff) "Works of art" means those items which may be in the nature of fixtures that are incorporated in facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design.

(gg) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

(hh) "Commissioner" means the Commissioner of the Rehabilitation Services Administration.

Subpart B—State Plans for Vocational Rehabilitation Services

STATE PLAN CONTENT; ADMINISTRATION

§ 1361.2 The State plan: General requirements.

(a) *Purpose.* In order for a State to be eligible for grants for any fiscal year from the allotments of funds under title I of the Act, it shall submit for such fiscal

year a State plan meeting Federal requirements. The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies jointly, and shall provide that it will be in effect in all political subdivisions of the State, except as specifically provided in § 1361.11 (Shared funding and administration of special joint projects or programs) and § 1361.12 (Waiver of Statewideness).

(b) *Form and content.* The State plan shall contain, in the form prescribed by the Commissioner, a description of the State's vocational rehabilitation program, the plans and policies to be followed in carrying out the program, and such other information prescribed by the Secretary. The State plan shall consist of:

(1) A part providing detailed commitments appropriate to the requirements of the Act and all regulations, policies and procedures established by the Commissioner, which commitments shall be amended or reaffirmed annually, and

(2) A part containing a fiscal year programming description, which shall be submitted annually and which shall be based on the findings of the continuing Statewide studies (§ 1361.18), the annual evaluation of the effectiveness of the State's program in meeting established goals and priorities (§ 1361.18), and other pertinent reviews and studies. Such annual programming description shall include:

(i) Changes in policy resulting from the continuing Statewide studies and the annual evaluation of the effectiveness of the program;

(ii) Estimates of the number of handicapped individuals who will be served with funds provided under the Act;

(iii) A description of the methods used to expand and improve services to the most severely handicapped;

(iv) A description of the order of selection (§ 1361.31) of individuals to whom vocational rehabilitation services will be provided (unless the State agency demonstrates that it is serving all eligible handicapped individuals who apply); and

(v) A statement of the general outcome and service goals to be achieved for handicapped individuals in each priority category within the order of selection in effect in the State and the time within which such goals may be achieved.

(c) *Separate part relating to rehabilitation of the blind.* If a separate State agency for the blind administers or supervises the administration of that part of the State plan relating to the rehabilitation of the blind, such part of the State plan shall meet all requirements as to submission, amendment, and content prescribed by the Act and this part as though it were a separate State plan.

(d) *Consolidated rehabilitation plan.* The State may elect to submit a consolidated rehabilitation plan which includes the State plan for vocational rehabilitation services and the State's plan for its program for persons with developmental disabilities as developed under the De-

velopmental Disabilities Services and Facilities Construction Act: *Provided, however,* That the State planning and advisory council for developmental disabilities and the agency or agencies administering such State's program for persons with developmental disabilities have concurred in the submission of such a consolidated rehabilitation plan. A consolidated rehabilitation plan must comply, and be administered in accordance with, this Act and the Developmental Disabilities Services and Facilities Construction Act. If the Commissioner finds that all such requirements are satisfied, he may approve the consolidated rehabilitation plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each program included therein, or he may request the State to submit separate plans for each program.

(e) *Amendment.* The State plan shall provide that it will be amended whenever necessary to reflect any material change in any applicable phase of State law, organization, policy, or agency operations which affects the administration of the State plan. Such amendments shall be submitted before they are put into effect or within a reasonable time thereafter.

§ 1361.3 Review of State plan by Governor.

The State plan shall be submitted to the State Governor for his review and comments, and shall provide that the Governor will be given an opportunity to review and comment on all amendments and long-range program planning projections or other periodic reports, except for periodic statistical or budget and other fiscal reports. The Office of the Governor will be afforded a period of 45 days in which to review such material. Any comments made will be transmitted to the Rehabilitation Services Administration with the documents.

§ 1361.4 State plan submittal and approval.

(a) The State plan shall be submitted for approval within 90 days following the effective date of this part, and for each fiscal year thereafter, no later than May 1 of the year preceding the fiscal year for which the State plan is submitted. Any State plan or amendment meeting the requirements of the Act and of this part shall be approved, except as provided under § 1361.2(d) in the case of a consolidated rehabilitation plan.

(b) No State plan, or modification thereof, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

§ 1361.5 Withholding of funds.

(a) *When withheld.* When after reasonable notice and opportunity for hearing to the State agency, it is found that:

(1) The State plan, or the vocational rehabilitation services part of the consolidated rehabilitation plan, has been so changed that it no longer complies with the requirements of section 101(a) of the Act, or

(2) In the administration of the State plan, or the vocational rehabilitation services part of the consolidated rehabilitation plan, there is a failure to comply substantially with any provision of such plan, further payments under section 111 or 121 may be withheld, suspended, or limited as provided by section 101(c) of the Act. The State agency will be notified of the decision made.

(b) *Judicial review.* The decision to withhold, suspend, or limit payments described in paragraph (a) of this section may be appealed to the U.S. district court for the district in which the capital of the State is located. The court will review the action on the record in accordance with the provisions of Chapter 7 of Title 5, United States Code.

(c) *Informal discussions.* Hearings described in paragraph (a) of this section will not be called until after reasonable effort has been made to resolve the questions involved by conference and discussion with State officials. Formal notification of the date and place of a hearing does not foreclose further negotiations with State officials.

§ 1361.6 State agency for administration.

(a) *Designation of sole State agency.* The State plan shall designate a State agency as the sole State agency to administer the State plan, or to supervise its administration in a political subdivision of the State by a sole local agency. In the case of American Samoa, the State plan shall designate the Governor; in the case of the Trust Territory of the Pacific Islands, the State plan shall designate the High Commissioner.

(b) *Designated State agency.* The State plan shall provide that the designated State agency, except for American Samoa and the Trust Territory of the Pacific Islands, and except for a designated State agency for the blind as specified in paragraph (c) of this section, shall be:

(1) A State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of handicapped individuals; such agency must be an independent State commission, board, or other agency, the major function of which is vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals with authority, subject to the supervision which derives from the Office of Governor, to define the scope of the program within the provisions of State and Federal law, and to direct its administration without external administrative controls; or

(2) The State agency administering or supervising the administration of education or vocational education in the State; or

(3) A State agency which includes at least two other major organizational units, each of which administers one or more of the State's major programs of public education, public health, public welfare, or labor.

(c) *Designated State agency for the blind.* Where the State commission for the blind or other agency which provides

assistance or services to the adult blind is authorized under State law to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind or to supervise the administration of such part in a political subdivision of the State by a sole local agency.

(d) *Authority.* The State plan shall set forth the authority under State law for the administration or supervision of the administration of the program by the sole State agency and the legal basis for administration by sole local rehabilitation agencies, if applicable. The State plan shall provide that the State agency shall submit a list of all laws and interpretations thereof by appropriate State officials, directly pertinent to the basic authority and organization for administration or supervision of the vocational rehabilitation program.

(e) *Responsibility for administration.* The State plan shall provide that all decisions affecting eligibility for, and the nature and scope of vocational rehabilitation services to be provided, will be made by the State agency through its organizational unit, or by a local agency under its supervision, and that this responsibility will not be delegated to any other agency or individual.

(f) *Designation of a new State agency.* A new State plan must be submitted within 90 days following the designation of a new State agency.

§ 1361.7 Organization of the State agency.

(a) *Organization.* The State plan shall describe the organizational structure of the State agency, including a description of organizational units, the programs and functions assigned to each, and the relationships among such units within the State agency. Such descriptions shall be accompanied by organizational charts reflecting:

(1) The relationship of the State agency to the Governor and his office and to other agencies administering major programs of public education, public health, public welfare, or labor of parallel stature within the State government, and

(2) The internal structure of the State agency. The organizational structure shall provide for all the vocational rehabilitation functions for which the State agency is responsible, for clear lines of administrative and supervisory authority, and shall be suited to the size of the vocational rehabilitation program and the geographic areas in which the program must operate.

(b) *Organizational unit.* Where the designated State agency is of the type specified in § 1361.6(b) (2) or (3), or § 1361.6(c), the State plan shall provide that the agency (or each agency, where two such agencies are designated), shall include a vocational rehabilitation bureau, division or other organizational unit which:

(1) Is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of handicapped in-

dividuals, and is responsible for the administration of such State agency's vocational rehabilitation program, which must include the determination of eligibility for and the provision of vocational rehabilitation services under the State plan;

(2) Has a full time administrator in accordance with § 1361.8; and

(3) Has a staff employed on such rehabilitation work of such organizational unit, all or substantially all of whom are employed full time on such work.

(c) *Location of organizational unit.*

(1) The State plan shall provide that the organizational unit, specified in paragraph (b) of this section, shall be located at an organizational level and shall have an organizational status within the State agency comparable to that of other major organizational units of such agency, or in the case of an agency described in § 1361.6(b) (2), the unit shall be so located and have such status, or the administrator of such unit shall be the executive officer of such State agency. In evaluating the comparability of the organizational level and the organizational status of the unit, the Commissioner will give consideration to such factors as the directness of the reporting line from the administrator of the organizational unit for vocational rehabilitation to the chief officer of the designated State agency; the title, status and grade of the administrator of the organizational unit for vocational rehabilitation as compared with those of the heads of other organizational units of the State agency; the extent to which the administrator of the organizational unit for vocational rehabilitation can determine the scope and policies of the vocational rehabilitation program; and the kind and degree of authority delegated to the administrator of the organizational unit for the administration of the vocational rehabilitation program.

(2) In the case of a State which has not designated a separate State agency for the blind as provided for in § 1361.6, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of the State agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of paragraphs (b) and (c) (1) of this section applying separately to each of such units.

§ 1361.8 State administrator.

The State plan shall provide that there shall be a full-time State administrator who shall direct the State agency specified in § 1361.6(b) (1) or the organizational unit specified in § 1361.7(b).

§ 1361.9 Local administration.

(a) The State plan shall provide that, when the plan is administered in a political subdivision through a sole local agency, such local administration shall be based on a written agreement with the State agency, which: (1) Will indicate that the local agency will conduct a vocational rehabilitation program

under the supervision of the State agency in accordance with the State plan and in compliance with Statewide standards established by the State agency, including standards of organization and administration; (2) will set forth the methods to be followed by the State agency in its supervision of the local agency, including an evaluation of the effectiveness of the local agency's program; (3) will set forth the basis on which the State agency participates financially in its locally administered vocational rehabilitation programs; and (4) will indicate whether the local agency will utilize another local public or nonprofit agency in the provision of vocational rehabilitation services to handicapped individuals, and the arrangements for such utilization.

(b) If the State plan provides for local administration, the State plan shall further provide that the sole local agency shall be responsible for the administration of all aspects of the program within the political subdivision which it serves: *Provided, however,* That a separate local agency serving the blind may administer that part of the plan relating to the rehabilitation of the blind, under the supervision of the State agency for the blind.

§ 1361.10 Methods of administration.

The State plan shall provide that the State agency will employ such methods of administration as are found necessary by the Commissioner for the proper and efficient administration of the plan, and for the carrying out of all functions for which the State is responsible under the plan and this part.

§ 1361.11 Shared funding and administration of special joint projects or programs.

In order to permit the carrying out of a special joint project or program to provide services to handicapped individuals, the State agency may request the Commissioner to authorize it to share funding and administrative responsibility for a joint project or program with another agency or agencies of the State, or with a local agency. The Commissioner will approve a request for the shared funding and administration of a special joint project or program which he has determined will more effectively accomplish the purposes of the Act and may also waive the provision of § 1361.2(a) that the State plan be in effect in all political subdivisions of the State. The State plan shall provide in such cases that each such special joint project or program shall be based on a written agreement which will:

(a) Describe the nature and scope of the joint project or program, the services to be provided to handicapped individuals and the respective roles of each participating agency both in the provision of services and in the administration of such services and in the share of the costs to be assumed by each;

(b) Specify the initial term of the joint project or program, and plans for anticipated continuation;

(c) Provide a budget showing for each fiscal year the financial participation by

the State agency and each participating agency;

(d) Provide written assurance that funds will be legally available for purposes of the joint project or program;

(e) Provide that the State agency shall annually evaluate the effectiveness of each project or program with special attention to its vocational rehabilitation objectives;

(f) Assure that the State agency and each participating agency will furnish such information and reports as the Commissioner may require to determine whether the activities are achieving the purposes of the project or program and warrant continuation; and

(g) Assure that the State vocational rehabilitation agency's portion of the joint project or program will comply with applicable requirements of the Act and this part.

§ 1361.12 Waiver of Statewideness.

If the State agency desires to carry out activities in one or more political subdivisions through local financing in order to promote the vocational rehabilitation of substantially larger numbers of handicapped individuals or the vocational rehabilitation of individuals with particular types of disabilities, the State plan shall identify the types of activities which will be carried out in this manner. The State plan shall provide in such cases that the State agency will:

(a) Obtain a full written description of any such activity to be carried out in a particular political subdivision and will obtain written assurance from the political subdivision that the non-Federal share of funds is available to the State agency;

(b) Require that its approval be given to each individual proposal before the proposal is put into effect in a political subdivision;

(c) Have sole responsibility for administration (or supervision if the vocational rehabilitation program is administered by local agencies) of the program in a particular local political subdivision in accordance with § 1361.6, except to the extent that funding and administrative responsibility will be shared with respect to a joint program under § 1361.11.

(d) Assure that all requirements of the State plan shall apply to such activities, except the requirement that the program be in effect in all political subdivisions of the State, and except that the provision of § 1361.82 may be applicable for Federal financial participation in expenditures for carrying out such activities; and

(e) Furnish such information and reports as the Commissioner may require.

§ 1361.13 Cooperative programs utilizing third party funds.

(a) The State plan shall provide that, when the State's share of the cost of a cooperative program for the purpose of providing vocational rehabilitation services or engaging in administrative activities of the State agency is made available in whole or in part by a State or local public agency other than the State vocational rehabilitation agency, such co-

operative program shall be based on a written agreement which:

(1) Describes the goals to be achieved and the activities to be undertaken to achieve these goals;

(2) Provides for an annual budget;

(3) Provides that expenditures for vocational rehabilitation services and the administration thereof or for engaging in State agency administrative activities for which Federal financial participation is claimed will be under the control and at the discretion of the State agency;

(4) Provides that where services to individuals are involved, only handicapped individuals shall be served by the cooperative program; and

(5) Provides for periodic evaluation of the extent to which the cooperative program has achieved defined goals as determined on the basis of established criteria and procedures for such evaluations.

(b) The State plan shall assure that services provided in such a cooperative program are vocational rehabilitation services:

(1) Which are not services of the cooperating agency to which the handicapped individual would be entitled if he were not an applicant or client of the State vocational rehabilitation agency, and

(2) Which represent new services or new patterns of services of the cooperating agency.

(c) The State plan shall further provide that the State agency will assure that the costs of administrative activities made available, in whole or in part by a State or local public agency other than the State vocational rehabilitation agency, are not costs which are attributable to the general expense of the State or locality in carrying out the administrative functions of the State or local government.

§ 1361.14 Staffing of State agency.

The State plan shall provide that staff in sufficient number and with appropriate qualifications will be available to carry out all functions required under the Act and this part. Such staff shall include specialists in the areas of program planning and evaluation, staff development, rehabilitation facility development and utilization, medical consultation, expansion and improvement of services to the severely handicapped, and affirmative action for equal employment opportunity for the handicapped.

§ 1361.15 Standards of personnel administration.

(a) The State plan shall set forth the State agency's standards of personnel administration consistent with State licensure laws and regulations and other pertinent laws and regulations applicable to its own employees and those of local agencies operating under its supervision. Rates of compensation and minimum qualifications shall be established for each class of position commensurate with the duties and responsibilities of that class. The State plan shall set forth the policies of the State agency with respect to the qualifications, selection, ap-

pointment, promotion, career development, and tenure of qualified personnel, including its policies against discrimination on the basis of sex, race, age, physical or mental impairment, creed, color, national origin, or political affiliation.

(b) Where personnel administration is conducted under a State merit system approved under the Standards for a Merit System of Personnel Administration, Part 70 of this title and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970, modifying or superseding such standards, the State plan shall make reference to such fact, and the information required above with respect to "Standards of Personnel Administration" need not be submitted, except that the responsibility for the appointment of personnel shall be described. In such cases, the State plan must further provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

(c) The State plan shall further provide that the State agency will develop and implement a plan to take affirmative action to employ and advance in employment qualified handicapped individuals. Such plan shall provide for specific action steps, timetables and complaint and enforcement procedures necessary to assure such affirmative action. The State plan shall further comply with the requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

(d) The State plan shall further provide for the maintenance of such written personnel policies, records, and other information as are necessary to permit an evaluation of the operations of the system of personnel administration in relation to the standards of the State agency.

(e) The Commissioner shall exercise no authority with respect to the selection, method of selection, tenure of office or compensation of any individual employed in accordance with the provisions of the approved State plan.

§ 1361.16 Staff development.

The State plan shall provide for a program of staff development for all classes of positions within the State agency. Such staff development program shall include, as a minimum: (a) A systematic approach to the determination of training needs and a system for evaluating the effectiveness of the training activities provided; (b) an orientation program for new staff; and (c) a plan for continuing training opportunities and career development for all classes of positions held under expert leadership at suitable intervals. If the staff development program includes leaves of absence

for institutional or other organized training such as full-time study, released time, or work-study or workers-in-training programs, the State agency shall establish in writing the policies governing the granting of such leave.

§ 1361.17 Political activity.

The State plan shall prohibit any employee engaged in the day-to-day administration and operation of the program from engaging in any political activity prohibited by the Hatch Act (5 U.S.C. chapter 15 and with regard to the District of Columbia, 5 U.S.C. chapter 73). Any employee shall have the right to express his views as a citizen and to cast his vote.

§ 1361.18 State agency studies and evaluations.

(a) The State plan shall provide for the conduct of continuing Statewide studies of the needs of handicapped individuals within the State, including the State's need for rehabilitation facilities, and the methods by which these needs may be most effectively met. Such studies shall:

(1) Determine the relative needs for vocational rehabilitation services of different significant segments of the population of handicapped individuals, with special reference to the need for expansion of service to the most severely handicapped individuals;

(2) Determine the means and methods by which vocational rehabilitation services to the most severely handicapped individuals and other handicapped individuals will be provided, expanded and improved after full consideration and study of a broad variety of means and methods possible; and

(3) Otherwise ensure the orderly and effective development of vocational rehabilitation services and rehabilitation facilities within the State. In States in which there is a separate agency for the blind, coordinated or joint studies will be conducted.

(4) Review the efficacy of the criteria employed by the State agency with respect to those individuals who have applied for vocational rehabilitation services and have been found to be ineligible for such services.

(b) The State plan shall provide that a comprehensive evaluation of the effectiveness of the State's vocational rehabilitation program in achieving service goals and priorities, as established in the plan, will be conducted annually. Such annual evaluation will measure the adequacy of State agency performance in providing vocational rehabilitation services, especially to the most severely handicapped individuals, in the light of State agency program or financial resources, and will be conducted according to general standards for evaluation developed by the Secretary under Part 1362 and Part 1370 of this chapter. The findings derived from the ongoing evaluation shall be reflected in the annual State plan or amendments thereto.

(c) The State plan shall further provide that reports of such continuing Statewide studies and annual evaluations shall be available to the public for review.

§ 1361.19 Policy development consultation.

(a) The State plan shall provide that the State agency, or as appropriate, the State agency and any sole local agency, will take into account, in connection with matters of general policy development and implementation arising in the administration of the State plan, the views of individuals and groups who are:

(1) Recipients of vocational rehabilitation services, or as appropriate, their parents, guardians, or other representatives;

(2) Providers of vocational rehabilitation services; and

(3) Others active in the field of vocational rehabilitation.

(b) The State plan shall further provide that the State agency will establish in writing and maintain a description of the methods to be used to obtain and consider such views on policy development and implementation and will assure that such description will be available to the public.

§ 1361.20 Cooperation with other public agencies.

(a) The State plan shall provide that, where appropriate, the State agency will enter into cooperative arrangements with, and utilize the services and facilities of, the State agencies administering the State's public assistance programs, other programs for disabled individuals such as the State's developmental disabilities programs, veterans' programs, health and mental health programs, education programs, workmen's compensation programs, manpower programs, and public employment offices; the Social Security Administration; the Office of Workmen's Compensation Programs of the Department of Labor; the Veterans' Administration; and other Federal, State and local public agencies providing services related to the rehabilitation of handicapped individuals.

(b) The State plan shall further provide that there will be maximum coordination and consultation in State vocational rehabilitation programs with programs for and relating to the rehabilitation of disabled veterans.

(c) Where there is a separate State agency for the blind, the State plan shall also provide that the two State agencies will establish reciprocal referral services, utilize each other's services and facilities to the extent practicable and feasible, jointly plan activities to improve services to the handicapped individuals in the State, and otherwise cooperate to provide more effective services.

§ 1361.21 Reports.

The State plan shall provide that the State agency will make such reports in such form and containing such information, and at such time, as the Commissioner may require, and will comply

with such provisions as he may find necessary to assure the correctness and verification of such reports.

§ 1361.22 Nondiscrimination in employment under construction contracts.

The State plan shall provide that the State agency will incorporate, or cause to be incorporated, into construction contracts (including construction contracts related to the establishment or construction of rehabilitation facilities) paid for in whole or in part with funds obtained from the Federal Government under the vocational rehabilitation program, such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246, and will otherwise comply with requirements prescribed by and pursuant to such order.

§ 1361.23 General administrative and fiscal requirements.

(a) The State agency shall adopt policies and methods pertinent to the fiscal administration and control of the vocational rehabilitation program, including sources of funds, incurrence and payment of obligations, disbursements, accounting, and auditing. The State plan shall provide for the maintenance by the State agency of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed against such grants.

(b) The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this part except for the requirement concerning in-kind contributions under Subpart G of Part 74 of this title.

STATE PLAN CONTENT: PROVISION AND SCOPE OF SERVICE

§ 1361.30 Processing referrals and applications.

The State plan shall provide that the State agency will establish in writing and maintain standards and procedures to assure expeditious and equitable handling of referrals and applications for vocational rehabilitation services.

§ 1361.31 Order of selection for services.

(a) The State plan shall set forth the order to be followed in selecting handicapped individuals to be provided vocational rehabilitation services when such services cannot be provided to all persons who apply and who have been determined to be eligible or who have been determined to be in need of an extended evaluation of rehabilitation potential to determine eligibility. The State plan shall define priority categories of handicapped individuals for the provision of such services.

(b) In establishing the order of selection for services, the State plan shall

provide for selecting the most severely handicapped individuals for the provision of vocational rehabilitation services prior to any other handicapped individuals who have applied for such services.

(c) The State plan shall further provide for special consideration in the selection for vocational rehabilitation services and the provision of such services to those handicapped individuals whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities.

(d) The State plan shall further provide that vocational rehabilitation services being provided to any handicapped individual under the terms and conditions of the Vocational Rehabilitation Act shall not be disrupted as a result of the approval of a State plan under this part.

§ 1361.32 Services to civil employees of the United States.

The State plan shall provide that vocational rehabilitation services will be made available to civil employees of the U.S. Government who are disabled in line of duty, under the same terms and conditions as are applied to other handicapped individuals.

§ 1361.33 Eligibility.

(a) *General provisions.* (1) The State plan shall provide that eligibility requirements will be applied by the State agency without regard to sex, race, age, creed, color, or national origin of the individual applying for service. The State plan shall further provide that no group of individuals will be excluded or found ineligible solely on the basis of type of disability. With respect to age, the State plan shall specify that no upper or lower age limit will be established which will, in and of itself, result in a finding of ineligibility for any handicapped individual who otherwise meets the basic eligibility requirements specified in paragraph (b) of this section.

(2) The State plan shall provide that no residence requirement, durational or other, will be imposed which excludes from services under the plan any individual who is present in the State.

(b) *Basic conditions.* The State plan shall provide that eligibility shall be based only upon:

(1) The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

(2) A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

§ 1361.34 Evaluation of rehabilitation potential: Preliminary diagnostic study.

(a) The State plan shall provide that, in order to determine whether any individual is eligible for vocational rehabilitation services, there shall be a preliminary diagnostic study which shall be sufficient to determine:

(1) Whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(2) Whether vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, or whether an extended evaluation of rehabilitation potential is necessary to make such a determination.

(b) The State plan shall provide that the preliminary diagnostic study will include such examinations and diagnostic studies as are necessary to make the determinations specified in paragraph (a) of this section, and, in all cases, will place primary emphasis upon the determination of the individual's potential for achieving a vocational goal. The State plan shall provide that the preliminary diagnostic study will include an appraisal of the current general health status of the individual. The State plan shall further provide that in all cases of mental or emotional disorder, an examination will be provided by a physician skilled in the diagnosis and treatment of such disorders, or by a psychologist licensed or certified in accordance with State laws and regulations, in those States where such laws and regulations pertaining to the practice of psychology have been established.

§ 1361.35 Evaluation of rehabilitation potential: Thorough diagnostic study.

(a) The State plan shall provide that, as appropriate in each case, there will be a thorough diagnostic study which will determine the nature and scope of services needed by the individual, and which will consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, and other related factors which bear on the individual's handicap to employment and rehabilitation needs.

(b) The State plan shall provide that the thorough diagnostic study will be sufficient in each case to determine the vocational rehabilitation services which are needed to attain vocational goals of the handicapped individual and that the findings of such study will be recorded in the case record for the individual.

(c) The State plan shall provide that in all cases of visual impairment, an evaluation of visual loss will be provided by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, and in the case of blindness, a screening for hearing loss will be obtained from a physician skilled in the diseases of the ear or from an audiologist licensed or certified in accordance with State laws or regulations.

(d) The State plan shall provide that in all cases of hearing impairment, an evaluation of the auditory system will be obtained from a physician skilled in the diseases of the ear, and based upon such physician's findings, a hearing evaluation may be provided by such a physician or by an audiologist licensed or certified in accordance with State laws or regulations.

(e) The State plan shall provide that in all cases of mental retardation, a psychological evaluation will be obtained which will include a valid test of intelligence and an assessment of social functioning and educational progress and achievement.

(f) The State plan shall provide that the thorough diagnostic study will include, in all cases to the degree needed, an appraisal of the individual's personality, intelligence level, educational achievements, work experience, personal, vocational, and social adjustment, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed. The State plan shall further provide that the thorough diagnostic study will include, as appropriate for each individual, an appraisal of the individual's patterns of work behavior, his ability to acquire occupational skill and his capacity for successful job performance, including the utilization of work, simulated or real, to assess the individual's capabilities to perform adequately in a work environment.

§ 1361.36 Extended evaluation to determine rehabilitation potential.

(a) *Basic conditions.* The State plan shall provide that the furnishing of vocational rehabilitation services under an extended evaluation to determine rehabilitation potential shall be based only upon:

(1) The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

(2) An inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine rehabilitation potential.

(b) *Duration and scope of services.* Vocational rehabilitation services necessary for the determination of rehabilitation potential, including those provided within a thorough diagnostic study, may be provided to a handicapped individual for a total period not in excess of 18 months.

(c) *Other conditions.* (1) The extended evaluation period shall begin with the date of the certification for extended evaluation to determine rehabilitation potential required in § 1361.37(b). Only one period not in excess of 18 months shall be permitted during the period that the case is open. If a case has been closed as a result of a determination that the handicapped individual's needs have changed, such case may be re-opened and a subsequent evaluation of rehabilitation potential may be carried out pro-

vided that the conditions in paragraph (a) of this section are met.

(2) Vocational rehabilitation services, authorized after the expiration of the extended evaluation period will be provided only if the certification of eligibility required in § 1361.37(a) has been executed by an appropriate State agency staff member.

(d) *Review.* The State plan shall provide for a thorough assessment of the individual's progress as frequently as necessary but at least once in every 90-day period during the period in which services are being provided under an extended evaluation of rehabilitation potential, including periodic reports from the institution, facility, or person providing the services, to determine the results of the provision of such services and to determine whether such individual may be determined to be eligible or ineligible.

(e) *Termination.* The State plan shall provide that at any time prior to the expiration of an 18-month extended evaluation period, the extended evaluation for the determination of rehabilitation potential shall be terminated when:

(1) The individual is found eligible for vocational rehabilitation services since there is a reasonable assurance that he can be expected to benefit in terms of employability from vocational rehabilitation services; or

(2) The individual is found ineligible for any additional vocational rehabilitation services since it has been determined beyond any reasonable doubt that he cannot be expected to benefit in terms of employability from vocational rehabilitation services. In each such case, the procedures described in § 1361.39(e) shall be followed.

§ 1361.37 Certification: eligibility; extended evaluation to determine rehabilitation potential; ineligibility.

(a) *Certification of eligibility.* The State plan shall provide that, prior to, or simultaneously with acceptance of a handicapped individual for vocational rehabilitation services, there will be a certification that the individual has met the basic eligibility requirements specified in § 1361.33(b). The State plan shall further provide that the certified statement of eligibility will be dated and signed by an appropriate State agency staff member.

(b) *Certification for extended evaluation to determine rehabilitation potential.* The State plan shall provide that, prior to, and as a basis for providing an extended evaluation to determine rehabilitation potential, there will be a certification that the individual has met the requirements specified in § 1361.36(a). The State plan shall further provide that the certified statement will be dated and signed by an appropriate State agency staff member.

(c) *Certification of ineligibility.* The State plan shall provide that whenever it has been determined beyond any reasonable doubt that an individual is ineligible for vocational rehabilitation services, either because he does not have

a physical or mental disability which constitutes a substantial handicap to employment, or because it has been determined beyond any reasonable doubt that he cannot be expected to benefit in terms of employability from vocational rehabilitation services, there shall be a certification, dated and signed by an appropriate State agency staff member. The State plan shall further provide that such certification of ineligibility will include the specifications of reasons for the determination of ineligibility and will be made only after full consultation with the individual or, as appropriate, his parent, guardian, or other representative, or after affording a clear opportunity for such consultation. In such cases, the State agency shall notify the individual in writing of the action taken and shall inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfactions, including the State agency's procedures for administrative review and fair hearings under § 1361.46. When appropriate, the individual shall be provided a detailed explanation of the availability of the resources within a client assistance project established under Part 1362 of this chapter and referral shall be made to other agencies and facilities. The State plan shall further provide that when an applicant for vocational rehabilitation services has been determined on the basis of the preliminary diagnostic study to be ineligible for such services because of a finding that he cannot be expected beyond any reasonable doubt to achieve a vocational goal, such determination of ineligibility will be reviewed not later than 12 months after such determination has been made. Such review need not be conducted in situations where the individual has refused such review, the individual is no longer present in the State, his whereabouts are unknown, or his medical condition is rapidly progressive or terminal.

§ 1361.38 The case record for the individual.

The State plan shall provide that the State agency will maintain for each applicant for vocational rehabilitation services a case record which will include, to the extent pertinent, the following information:

(a) Documentation as to the preliminary diagnostic study and, as appropriate, the thorough diagnostic study, supporting the determination of eligibility, or the determination that an extended evaluation of rehabilitation potential is necessary to make such determination, and the nature and scope of vocational rehabilitation services to be provided;

(b) In the case of individuals who have applied for vocational rehabilitation services and have been determined to be ineligible, documentation as to the preliminary diagnostic study specifying the reasons for such determination, and documentation of a review of the ineligibility determination carried out not

later than twelve months after such determination has been made;

(c) Data supporting any determination that the handicapped individual is a severely handicapped individual;

(d) Documentation as to periodic assessment of the individual during an extended evaluation of rehabilitation potential;

(e) An individualized written rehabilitation program as developed under § 1361.39 and any amendments to such program;

(f) In the event the physical and mental restoration services are provided, documentation supporting the determination that the clinical status of the handicapped individual is stable or slowly progressive;

(g) Documentation supporting any decision to provide services to family members;

(h) Data relating to the participation by the handicapped individual in the cost of vocational rehabilitation services if the State elects to condition the provision of any vocational rehabilitation services on the financial need of the handicapped individual;

(i) Data relating to the eligibility of the individual for similar benefits under any other program;

(j) Documentation that the individual has been advised of the confidentiality of all information pertaining to his case, and documentation and other material pertinent to the release of any information concerning the handicapped individual on the basis of the written consent of the handicapped individual;

(k) Documentation as to the reason and justification for closing the case, including the employment status of the client, and if the individual is determined to be rehabilitated, the basis on which the employment was determined to be suitable;

(l) Documentation of any plans for the provision of post-employment services after the employment objective has been achieved, the basis on which such plans were developed, and a description of the services provided and the outcomes achieved;

(m) Documentation as to any action and decision involving the handicapped individual's request for an administrative review of agency action or fair hearings under § 1361.46; and

(n) In the case of an individual who has been provided vocational rehabilitation services under an individualized written program but who has been determined after the initiation of such services to be no longer capable of achieving a vocational goal, documentation of any reviews of such determination in accordance with § 1361.39(e).

§ 1361.39 The individualized written rehabilitation program.

(a) The State plan shall provide that an individualized written rehabilitation program will be initiated and continuously developed for each handicapped individual eligible for vocational rehabilitation services, and for each handicapped individual being provided such

services under an extended evaluation to determine rehabilitation potential. The State plan shall further provide that vocational rehabilitation services will be provided to such individuals in accordance with the written program. The individualized written rehabilitation program shall be developed jointly by the appropriate State agency staff member and the handicapped individual or, as appropriate his parent, guardian or other representative, and a copy of the written program, and any amendments thereto, shall be provided to the handicapped individual or, as appropriate, his parent, guardian or other representative.

(b) The individualized written rehabilitation program shall be initiated after certification of eligibility under § 1361.37 (a) or certification for extended evaluation to determine rehabilitation potential under § 1361.37(b).

(c) The individualized written rehabilitation program shall place primary emphasis on the determination and achievement of a vocational goal, and, as appropriate, shall include, but shall not necessarily be limited to statements concerning the following:

(1) The basis on which the determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of rehabilitation potential is necessary to make a determination of eligibility;

(2) The long-range employment goals established for the individual and the intermediate rehabilitation objectives related to the attainment of such goals;

(3) The determination of the specific vocational rehabilitation services to be provided in order to achieve established employment goals and the terms and conditions for the provision of such services;

(4) The projected date for the initiation of each vocational rehabilitation service, the anticipated duration of each such service, and the time within which the objectives and goals for each individual might be achieved;

(5) A procedure and schedule for periodic review and evaluation of progress toward rehabilitation objectives and goals based upon objective criteria, and a record of such reviews and evaluations;

(6) The views of the handicapped individual, or, as appropriate, his parent, guardian, or other representative, concerning his goals and objectives and the vocational rehabilitation services being provided;

(7) The terms and conditions for the provision of vocational rehabilitation services including responsibilities of the handicapped individual in implementing the individualized written rehabilitation program, the extent of client participation in the cost of services if the State elects to condition the provision of any services on the financial need of the client, and the extent to which the individual is eligible for similar benefits under any other programs;

(8) An assurance that the handicapped individual has been informed of his rights and the means by which he may express and seek remedy for any dissatis-

faction, including the opportunity for an administrative review of agency action or fair hearings under § 1361.46;

(9) Where appropriate, assurance that the handicapped individual has been provided a detailed explanation of the availability of the resources within a client assistance project established under Part 1362 of this chapter;

(10) The basis on which the individual has been determined to be rehabilitated; and

(11) Any plans for the provision of post-employment services after a suitable employment objective has been achieved and the basis on which such plans are developed.

(d) The State plan shall provide that the individualized written program shall be reviewed as often as necessary but at least on an annual basis at which time each handicapped individual, or, as appropriate, his parent, guardian or other representative will be afforded an opportunity to review such program and, if necessary, jointly redevelop its terms.

(e) The State plan shall provide that if services are to be terminated under a written program on the basis of a determination that the handicapped individual is not capable of achieving a vocational goal and is then no longer eligible, or if in the case of a handicapped individual who has been provided services under an extended evaluation of rehabilitation potential, services are to be terminated on the basis of a determination that such individual cannot be determined to be eligible, the following conditions and procedures will be met or carried out:

(1) Such decision shall be made only with the full participation of such individual, or, as appropriate, his parent, guardian, or other representative, or after offering a clear opportunity for such consultation in those cases where such consultation is precluded because the individual has refused such consultation, the individual is no longer present in the State or his whereabouts are unknown, or his medical condition is rapidly progressive or terminal. When the full participation of the individual or a representative of the individual has been secured in making such decision, the views of the individual or his representative concerning the decision shall be recorded in the individualized written rehabilitation program;

(2) The rationale for such decision shall be recorded as an amendment to the individualized written rehabilitation program certifying that the provision of vocational rehabilitation services has demonstrated beyond any reasonable doubt that such individual is not capable of achieving a vocational goal, and a certification of ineligibility under § 1361.37(c) shall then be executed; and

(3) There shall be a periodic review, at least annually, of the ineligibility decision in which the individual will be afforded clear opportunity for full consultation in the reconsideration of such decision, except in situations where a periodic review would be precluded because the individual has refused services or has

refused a periodic review, the individual is no longer present in the State, his whereabouts are unknown, or his medical condition is rapidly progressive or terminal.

§ 1361.40 Scope of agency program: Vocational rehabilitation services for individuals.

(a) The State plan shall provide that, as appropriate, the following vocational rehabilitation services will be available to individuals:

(1) Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided;

(2) Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship throughout a handicapped individual's program of services; and referral necessary to help handicapped individuals secure needed services from other agencies when such services are not available under the Act;

(3) Physical and mental restoration services;

(4) Vocational and other training services, including personal and vocational adjustment, books, tools and other training materials;

(5) Maintenance;

(6) Transportation;

(7) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(8) Interpreter services for the deaf;

(9) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(10) Telecommunications, sensory and other technological aids and devices;

(11) Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment;

(12) Placement in suitable employment;

(13) Post-employment services, necessary to assist handicapped individuals to maintain suitable employment;

(14) Occupational licenses, tools, equipment, initial stocks (including livestock) and supplies; and

(15) Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability.

(b) The State plan shall further provide that the State agency shall establish in writing and maintain current policies with respect to the scope and nature of each of the vocational rehabilitation services specified in paragraph (a) of this section, and the conditions, criteria, and procedures under which each of such services is to be provided. In the case of telecommunications, sensory, and other technological aids and devices, such policies shall ensure that when individualized prescriptions and fittings are re-

quired, such prescriptions and fittings shall be performed by individuals licensed to fill such prescriptions and licensed to perform such fittings in accordance with State licensure laws, or by appropriate certified professionals. When a hearing aid is recommended on the basis of an evaluation of the auditory system, such hearing aid shall be fitted in accordance with the specifications of the findings obtained under § 1361.35. Newly developed aids and devices not requiring individualized fittings must meet engineering and safety standards, recognized by experts in the field, as determined by the Secretary.

§ 1361.41 Individuals determined to be rehabilitated.

(a) The State plan shall provide that when an individual is determined to be rehabilitated, such individual must have been, as a minimum:

(1) Determined to be eligible under § 1361.37(a);

(2) Provided an evaluation of rehabilitation potential, and counseling and guidance as essential vocational rehabilitation services;

(3) Provided appropriate vocational rehabilitation services in accordance with the individualized written rehabilitation program developed under § 1361.39; and

(4) Determined to have achieved a suitable employment objective which has been maintained for a period of time not less than 60 days.

(b) The State plan shall further provide that after individuals have been determined to be rehabilitated, the State agency shall provide post-employment services to those individuals who require such services to the extent necessary to maintain suitable employment.

§ 1361.42 Authorization of services.

The State plan shall provide that written authorization will be made, either simultaneously with or prior to the purchase of services, and will be retained. Where a State agency employee is permitted to make oral authorization in an emergency situation, the State plan shall provide for prompt documentation of such oral authorization in the client's case record and such authorization shall be confirmed in writing and forwarded to the provider of the services.

§ 1361.43 Standards for facilities and providers of services.

(a) The State plan shall provide that the State agency will establish in writing and maintain minimum standards for the various types of facilities and providers of services utilized by the State agency in providing vocational rehabilitation services to handicapped individuals. The State agency shall make such standards accessible to State agency personnel and to the public.

(b) The Commissioner shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in any facility utilized in providing services.

§ 1361.44 Rates of payment.

The State plan shall provide for the establishment in writing of policies governing rates of payment for all purchased vocational rehabilitation services, and provide that the State agency will maintain in accessible form information as to current rates of payment. The State plan shall further provide that individual or other vendors providing any services authorized by the State agency shall agree not to make any charge to or accept any payment from the handicapped individual or his family for such services unless the amount of such service charge or payment is previously known to and, where applicable, approved by the State agency.

§ 1361.45 Participation by handicapped individuals in the costs of vocational rehabilitation services.

(a) *Financial need.* (1) There is no Federal requirement that the financial need of a handicapped individual be considered in the provision of any vocational rehabilitation service.

(2) If the State elects to consider the financial need of handicapped individuals for purposes of determining the extent of their respective participation in the costs of vocational rehabilitation services, the State agency shall establish in writing and maintain policies with respect to the determination of financial need, and the State plan shall specify the types of vocational rehabilitation services for which the agency has established an economic needs test. The policies so established shall be reasonable and shall be applied uniformly so that equitable treatment is accorded all handicapped individuals in similar circumstances.

(3) The State plan shall provide that no economic needs test will be applied as a condition for furnishing the following vocational rehabilitation services:

(i) Evaluation of rehabilitation potential, except for those vocational rehabilitation services other than of a diagnostic nature which are provided under an extended evaluation of rehabilitation potential under § 1361.36;

(ii) Counseling, guidance, and referral services; and

(iii) Placement.

(b) *Consideration of similar benefits.* (1) The State plan shall provide that, in all cases, the State agency will give full consideration to any similar benefits available to a handicapped individual under any other program to meet, in whole or in part, the cost of any vocational rehabilitation services provided to such a handicapped individual, except the following:

(i) Evaluation, of rehabilitation potential except as provided under paragraph (b) (4) of this section;

(ii) Counseling, guidance and referral;

(iii) Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except for training or training services in institutions of higher education under § 1361.71

(a) (3);

(iv) Services to members of a handicapped individual's family;

(v) Placement; and

(iv) Most-employment services necessary to assist handicapped individuals to maintain suitable employment;

(2) The State plan shall provide that the State agency will give full consideration to any similar benefit available under any other program to a handicapped individual to meet, in whole or in part, the cost of physical and mental restoration services and maintenance provided to such a handicapped individual except where such consideration would significantly delay the provision of such services to an individual;

(3) The State plan shall provide that when, and to the extent that, an individual is eligible for such similar benefits, such benefits will be utilized insofar as they are adequate, and do not interfere with achieving the rehabilitation objective of the individual.

(4) The State plan shall further provide that the State agency will give full consideration to any similar benefits available to a handicapped individual being provided an extended evaluation of rehabilitation potential under § 1361.36 in a manner consistent with paragraphs (b)(1) through (b)(3) of this section.

§ 1361.46 Administrative review of agency action, and fair hearing.

(a) The State plan shall provide that an applicant for or recipient of vocational rehabilitation services under the State plan who is dissatisfied with any action with regard to the furnishing or denial of such services may file a request for an administrative review and re-determination of that action to be made by a member or members of the supervisory staff of the State agency. The State plan shall further provide that when the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing before the State administrator or his designee.

(b) Each applicant for or recipient of vocational rehabilitation services shall be informed of the opportunity available to him under paragraph (a) of this section.

§ 1361.47 Confidential information.

(a) The State plan shall provide that the State agency will adopt and implement such regulations as are necessary to assure that:

(1) All information as to personal facts given or made available to the State agency, its representatives, or its employees, in the course of the administration of the vocational rehabilitation program, including lists of names and addresses and records of agency evaluation, shall be held to be confidential;

(2) The use of such information and records shall be limited to purposes directly connected with the administration of the vocational rehabilitation program;

(3) Information shall not be disclosed directly or indirectly, other than in the administration of the vocational re-

habilitation program, unless the informed consent of the client has been obtained in writing;

(4) Release of information to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided and that it will not be released to any other individual, agency, or organization;

(5) Upon written request, information may be released to the client or, as appropriate, his parent, guardian, or other representative, and shall be released to such client, parent, guardian, or other representative for purposes in connection with any proceeding or action for benefits or damages, including any proceeding or action against any public agency: *Provided*, (i) That only such information as is relevant to the needs of the client shall be released, and (ii) in the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian, or other representative of the client by the State agency, or to the client by a physician or by a licensed or certified psychologist; and

(6) Information will be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State vocational rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the State agency without written consent of such person and the State agency.

(b) The State plan shall further provide that all information is the property of the State agency;

(c) The State plan shall further provide that the State agency will adopt and maintain such procedures and standards as are necessary to:

(1) Give effect to these regulations; and

(2) Assure that all vocational rehabilitation applicants, clients, providers of services, and interested persons will be informed as to the confidentiality of vocational rehabilitation information and the conditions for the release of such information.

§ 1361.43 Scope of agency program: Management services and supervision for small business enterprises for the most severely handicapped individuals.

(a) The State plan may provide for management services and supervision provided to small business enterprises (including vending facilities) operated by the most severely handicapped individuals, and may also provide for estab-

lishing such small business enterprises. If the State plan so provides, it shall further provide that the State agency shall establish in writing and maintain:

(1) A description of the types of small business enterprises to be established under the program;

(2) A description of the policies governing the acquisition of vending facilities or other equipment and initial stocks (including livestock) and supplies for such businesses;

(3) A description of the policies governing the management and supervision of the program;

(4) A description of how management and supervision will be accomplished either by the State agency, or by some other organization as the nominee of such agency, subject to its control; and

(5) Assurance that only the most severely handicapped individuals will be selected to participate in this supervised program.

(b) If the State agency elects to set aside funds from the proceeds of the operation of such enterprises, the State plan shall also provide that the State agency shall establish in writing and maintain a description of the methods used in setting aside such funds, and the purpose for which such funds are set aside. Such funds may be used only for small business enterprise program purposes and any benefits for operators must be provided on an equitable basis.

§ 1361.49 Scope of agency program: Establishment of rehabilitation facilities.

The State plan may provide for the establishment of public or other non-profit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their establishment and that such establishment will be consistent with State rehabilitation facilities planning and will not duplicate other resources available to rehabilitation facilities;

(b) Provide that the State agency shall establish in writing and maintain standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety and other pertinent conditions and insofar as workshops are concerned, the State agency shall establish in writing and maintain criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. Such standards and criteria shall incorporate, insofar as applicable, any standards and criteria established by the Commissioner, and shall conform with regulations of the Secretary of Labor relating to occupational safety and health standards for rehabilitation facilities, the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards pre-

scribed by the Secretary of Housing and Urban Development (24 CFR Part 40) or Administrator of General Services (41 CFR 101-17.703) and, where applicable, the National Environmental Policy Act of 1969 (Pub. L. 90-190).

(c) Provide that the primary purpose of the establishment of any rehabilitation facility is to establish a rehabilitation facility in which vocational rehabilitation services or transitional or extended employment will be provided to handicapped individuals;

(d) Provide that, in cases where initial staffing assistance is provided, such assistance will be available only for personnel who are engaged in new or expanded program activities of the rehabilitation facility.

(e) Provide that any rehabilitation facility established under this part will develop and implement a plan to take affirmative action to employ and advance in employment qualified handicapped individuals which shall provide for specific action steps, timetables and complaint and enforcement procedures necessary to assure such affirmative action; and

(f) Provide that any rehabilitation facility established under this part will comply with all requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

§ 1361.50 Scope of agency program: Construction of rehabilitation facilities.

The State plan may provide for the construction of public or other nonprofit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their construction and that such construction will be consistent with State rehabilitation facilities planning and will not duplicate other resources available to rehabilitation facilities;

(b) Provide that the State agency shall establish in writing and maintain standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety, and other pertinent conditions and, insofar as workshops are concerned, the State agency shall establish in writing and maintain criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. Such standards and criteria shall incorporate, insofar as applicable, any standards and criteria established by the Commissioner;

(c) Provide that the primary purpose of the construction of any rehabilitation facility is to construct a rehabilitation facility in which vocational rehabilitation services or transitional or extended employment will be provided to handicapped individuals;

(d) Provide that the total Federal financial participation in the expenditures for the construction of rehabilitation

facilities for a fiscal year shall not exceed 10 per centum of the State's allotment for such year under section 110 of the Act;

(e) Provide that for each fiscal year the amount of the State's share of expenditures for vocational rehabilitation services under the plan, other than for the construction of rehabilitation facilities and the establishment of rehabilitation facilities, shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding three fiscal years;

(f) Provide that in addition to any other requirement imposed by law, each proposal for the construction of a rehabilitation facility will be subject to the requirements for the construction of a rehabilitation facility under Part 1362 of this chapter and the condition that the applicant will furnish and comply with all assurances set forth in the application;

(g) Provide that any rehabilitation facility constructed under this part will develop and implement a plan to take affirmative action to employ and advance in employment qualified handicapped individuals which shall provide for specific action steps, timetables and complaint and enforcement procedures necessary to assure such affirmative action; and

(h) Provide that any rehabilitation facility constructed under this part will comply with all requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

§ 1361.51 Scope of agency program: Facilities and services for groups of handicapped individuals.

The State plan may provide for facilities and services which may be expected to contribute substantially to the rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one handicapped individual. If the State plan so provides, it shall further provide that the State agency shall establish in writing and maintain policies for the provision of such facilities and services.

§ 1361.52 Utilization of community facilities.

The State plan shall provide that, in the provision of vocational rehabilitation services, maximum utilization will be made of public or other vocational or technical training facilities or other appropriate resources in the community.

§ 1361.53 Periodic review of extended employment in rehabilitation facilities.

The State plan shall provide for periodic review and re-evaluation at least annually, of the status of those handicapped individuals who have been placed by the State agency in extended employment in rehabilitation facilities, including workshops, to determine the feasibility of their employment or their training for future employment in the competitive labor market. The State plan shall further provide that maximum effort will be made to place such individuals in com-

petitive employment or training for such employment whenever determined to be feasible.

Subpart C—Financing of State Vocational Rehabilitation Programs

FEDERAL FINANCIAL PARTICIPATION

§ 1361.70 Effect of State rules.

Subject to the provision and limitations of the Act and this part, Federal financial participation will be available in expenditures made under the State plan (including the administration thereof) in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local agencies.

§ 1361.71 Vocational rehabilitation services to individuals.

(a) Federal financial participation will be available in expenditures made under the State plan for providing an evaluation of rehabilitation potential, including diagnostic and related services necessary for determining an individual's eligibility for vocational rehabilitation services, and the nature and scope of services to be provided.

(b) Federal financial participation will also be available in expenditures made under the State plan for providing the following vocational rehabilitation services to individuals:

- (1) Counseling, guidance and referral;
- (2) Physical and mental restoration services;

(3) Vocational and other training services, including personal and vocational adjustment, books, tools, and training materials: *Provided*, That no training or training services in institutions of higher education (universities, colleges, community/junior colleges) shall be paid for with funds under this part unless maximum efforts have been made by the State agency to secure grant assistance in whole or in part from other sources to pay for such training or training services;

(4) Maintenance;

(5) Transportation;

(6) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(7) Interpreter services for the deaf;

(8) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(9) Telecommunications, sensory or other technological aids and devices;

(10) Recruitment and training services for new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate public service employment;

(11) Placement in suitable employment;

(12) Post-employment services necessary to assist handicapped individuals to maintain suitable employment;

(13) Occupational licenses, tools, equipment and initial stocks and supplies. "Equipment" as used herein includes shelters which are only those facilities for a business undertaking cus-

tomarily furnished by the operator of a like undertaking occupying premises under a short-term lease;

(14) Other goods and services not contraindicated by the Act and this part, necessary to determine the rehabilitation potential of a handicapped individual or to be of benefit to him in terms of his employability. (This may include expenditures for short periods of medical care for acute conditions arising during the course of rehabilitation, which, if not cared for, would constitute a hazard to the evaluation of rehabilitation potential or to the achievement of the vocational objective.)

(c) Federal financial participation will not be available in any expenditure made, either directly or indirectly, for the purchase of any land, or for the purchase or erection of any building for any one handicapped individual. This exclusion with respect to buildings does not apply to shelters as described in paragraph (b) (13) of this section.

§ 1361.72 Management services and supervision for small business enterprises for the most severely handicapped.

(a) Federal financial participation will be available in expenditures made under the State plan for the acquisition of equipment, and initial stocks (including livestock) and supplies for small business enterprises (including vending facilities) for the most severely handicapped individuals, and management services and supervision provided by the State agency to improve the operation of such small business enterprises (including vending facilities). "Equipment" as used herein includes shelters, which are only those facilities for a business undertaking which are customarily furnished by the operator of a like undertaking occupying premises under a short-term lease. Federal financial participation will not be available in any expenditure for the purchase of any land, nor for the purchase or erection of any building. This exclusion with respect to buildings does not apply to shelters as described in this paragraph;

(b) Federal financial participation is available for expenditures specified under paragraph (a) of this section, which are made from funds set-aside by the State agency from the proceeds of the operation of small business enterprises for the most severely handicapped individuals under its management and supervision.

§ 1361.73 Establishment of rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the establishment of public and other nonprofit rehabilitation facilities for the following types of expenditures, except as limited in paragraph (b) of this section:

(1) Acquisition of existing buildings, and where necessary, the land in connection therewith;

(2) Remodeling and alteration of existing buildings;

(3) Expansion of existing buildings;

(4) Architect's fees;

(5) Site survey and soil investigation;

(6) Initial fixed or movable equipment of existing building;

(7) Initial staffing of rehabilitation facilities; and

(8) Such other direct expenditures as are appropriate to the establishment project.

(b) Federal financial participation will not be available in any expenditure:

(1) For the acquisition of an existing building when the cost of acquisition of such building under this section is in excess of \$200,000;

(2) For the rental of land, or rental of buildings in connection with the establishment of rehabilitation facilities;

(3) For the remodeling or alteration of an existing building when the estimated cost of such remodeling or alteration exceeds the fair market value of such building prior to the remodeling or alteration;

(4) For the expansion of an existing building which has not been completed in all respects;

(5) For the expansion of an existing building to the extent that the total size of the resultant expanded building, determined in square footage of usable space, will be greater than twice the size of the original existing building; or

(6) For the expansion of an existing building if the method of joining the expanded portion of the existing building indicates that, in effect, a separate structure is involved.

(c) The amount of Federal financial participation in the establishment of a rehabilitation facility, including initial equipment, and initial staffing for a period not to exceed 4 years and 3 months, shall be 80 per centum.

(d) Funds made available to a private nonprofit agency for the establishment of a rehabilitation facility shall be expended by that agency in accordance with procedures and standards equivalent to those of the State agency in making direct expenditures for similar purposes.

§ 1361.74 Construction of rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the construction of public or other nonprofit rehabilitation facilities for the following types of expenditures:

(1) Acquisition of land in connection with the construction of a rehabilitation facility;

(2) Acquisition of existing buildings;

(3) Remodeling, alteration or renovation of existing buildings;

(4) Construction of new buildings and expansion of existing buildings when the expansion is extensive enough to be tantamount to new construction;

(5) Architect's fees;

(6) Site survey and soil investigation;

(7) Initial fixed or movable equipment of such new, newly acquired, expanded, remodeled, altered or renovated buildings;

(8) Works of art in an amount not to exceed 1 per centum of the total cost of the project; and

(9) Such other direct expenditures as are appropriate to the construction project: *Provided, however*, That Federal financial participation will not be available for the costs of offsite improvements.

(b) The amount of Federal financial participation in the construction of a rehabilitation facility shall be equal to the same percentage of the cost of the project as the Federal share which would be applicable in the case of a rehabilitation facility (as defined in section 645(g) of the Public Health Service Act, 42 U.S.C. 291(a)), in the same location.

(c) Funds made available to a private nonprofit agency for the construction of a rehabilitation facility shall be expended by that agency in accordance with procedures and standards equivalent to those of the State agency in making direct expenditures for similar purposes.

§ 1361.75 Facilities and services for groups of handicapped individuals.

Federal financial participation will be available in expenditures made under a State plan for the provision of other facilities and services which may be expected to contribute substantially to the rehabilitation of a group of handicapped individuals but which are not related directly to the rehabilitation of any one handicapped individual.

§ 1361.76 Administration.

Federal financial participation will be available in expenditures under the State plan for administration. Administration includes, among other things: program planning, development, evaluation, and control; research; interpretation of the program to the public; personnel administration, including the administration of affirmative action plans; use of advisory committees; the removal of architectural barriers in State agency offices and facilities; and training and staff development, including educational leave, for State agency personnel. All expenditures for administration in which Federal financial participation is claimed must be subject to the administrative or supervisory control of the sole State agency, or, if performed by some other agency of the State, must be subject to such terms of a cooperative arrangement as will serve to assure consistency with the State agency's policies and objectives. Such expenditures must be made pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 1361.77 Purchase of goods, facilities, or services from other agencies of the State.

Federal financial participation will be available in expenditures under the State plan for payment of the costs incurred by other agencies of the State furnishing goods, facilities, or services to the State agency: *Provided*, That (a) such payments are permissible under State law;

(b) such costs are incurred to meet the needs of the State agency, and are not costs attributable to the general expense of the State in carrying out the overall coordinating, fiscal, and administrative functions of the State government; and (c) such expenditures are made pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 1361.78 Insurance and taxes.

Federal financial participation will be available in expenditures made under the State plan for:

(a) The State agency's share of costs in employee benefit programs;

(b) Workmen's compensation;

(c) Burglary, robbery, and fire insurance, if permitted by the State, and reasonably necessary to protect funds in transit or in the custody of State or local agency personnel;

(d) Motor vehicle liability costs, where the State accepts responsibility for such loss; and

(e) Federal, State, and local taxes, if the State agency is legally obligated to pay such taxes: *And provided*, That all comparable agencies in the State are uniformly treated. All such expenditures shall be made pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 1361.79 Cost of space.

Federal financial participation will be available in expenditures made under the State plan for costs of space for State agencies that are incurred (a) for paying rent and service and maintenance costs in privately owned buildings; (b) in meeting the costs of service and maintenance in lieu of rent in publicly owned buildings; (c) in meeting rental charges in federally and municipally owned buildings, where the municipality is not administering the vocational rehabilitation program locally; (d) in making necessary repairs and alterations to either private or publicly owned buildings; and (e) for monthly rental charges, based on the cost of initial construction or purchase of State or locally owned buildings: *Provided*, That such expenditures are made pursuant to the cost principles prescribed in Subpart Q of Part 74 of this title.

§ 1361.80 State and local funds.

(a) In order to receive the Federal share of expenditures under the State plan, expenditures from State or local funds under such plan equal to the State's share must be made. Such funds may not consist of Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. The State's share shall be the difference between the Federal share (§ 1361.86(a)), and 100 per centum.

(b) For the purposes of this section, "State or local funds" means:

(1) Funds made available by appropriation directly to the State or local agency, funds made available by allotment or transfer from a general depart-

mental appropriation, or funds otherwise made available to the State or local agency by any unit of State or local government, including any funds, goods or services made available by such unit for vocational rehabilitation activities under cooperative programs pursuant to § 1361.13;

(2) Contributions by private organizations or individuals, which are deposited in the account of the State or local agency in accordance with State law, for expenditure by, and at the sole discretion of, the State or local agency: *Provided, however*, That such contributions earmarked for meeting the State's share for providing particular services, for serving certain types of disabilities, for providing services for special groups which are identified on the basis of criteria which would be acceptable for the earmarking of public funds, or for carrying on types of administrative activities so identified may be deemed to be State funds, if permissible under State law, except that Federal financial participation will not be available in expenditures that revert to the donor's use or facility;

(3) Funds set aside pursuant to § 1361.72(b); or

(4) Contributions by private agencies, organizations or individuals deposited in the account of the State or local agency in accordance with State law, which are earmarked, under a condition imposed by the contributor, for meeting (in whole or in part) the State's share for establishing or constructing a particular rehabilitation facility, if permissible under State law: *Provided, however*, That such funds may be used to earn Federal funds only with respect to expenditures for establishing or constructing the particular rehabilitation facility for which the contributions are earmarked.

§ 1361.81 Shared funding and administration of joint projects or programs.

Where the Commissioner has approved a request by the State agency to participate in a joint project or program with another agency or agencies of the State, or with a local agency in accordance with § 1361.11, Federal financial participation will be available in the State agency share of costs for which there is such Federal participation under the Act.

§ 1361.82 Waiver of Statewideness.

If the approved State plan provides for activities to be carried out in one or more political subdivisions through local financing (§ 1361.12), Federal financial participation will be available in expenditures made under the State plan for vocational rehabilitation services and administration in connection with such activities in accordance with the provisions of this subpart, except that funds made available to the State agency by such political subdivisions of the State (including funds contributed to such a subdivision by a private agency, organization or individual) may be earmarked for use within a specific geographical area or for use at a specific facility or for the benefit of a group of individuals

with a particular disability: *Provided*, That nothing in this paragraph shall authorize the further earmarking of funds for a particular individual or for members of a particular organization, and that Federal financial participation will not be available in expenditures that revert to the donor's use or facility where the donor is a private agency, organization or individual.

ALLOTMENT AND PAYMENT

§ 1361.85 Allotment of Federal funds for vocational rehabilitation services.

(a) For each fiscal year each State shall be entitled to an allotment of an amount authorized by the Act to be appropriated for that fiscal year for making grants to States for meeting the cost of vocational rehabilitation services under section 100(b)(1) of the Act as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all States, subject to the provision in paragraph (b) of this section. For any fiscal year the allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) which is less than one-quarter of 1 per centum of the amount appropriated under section 100(b)(1) or \$2 million, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments of each of the remaining such States, but with such adjustments as may be necessary to prevent the allotments of any such remaining States from being thereby reduced to less than that amount.

(1) Population, as applied to any State, means the population of that State as determined by official estimates furnished to the Commissioner by the Department of Commerce by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated.

(2) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States (i.e., the 50 States, the District of Columbia), except that the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands shall be 75 per centum.

(3) The allotment percentage shall be promulgated by the Secretary between July 1 and September 30 of each even numbered year, on the basis of the average of the per capita income of the States and of the United States (i.e., the 50 States and the District of Columbia) for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal

years in the period beginning July 1, next succeeding such promulgation.

(b) If at any time after the start of any fiscal year, or after a review by the Commissioner after March 1 of such fiscal year, the Commissioner determines, after reasonable opportunity for the submission of comments by the State agency, that any amount of an allotment to a State for any fiscal year will not be utilized by the State carrying out the purposes of the State vocational rehabilitation program, he shall make such amount available for carrying out the purposes of this part to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. When such amounts are made available to such other States, they shall be distributed to those States which can most effectively utilize such additional amount in proportion to the amount which each State's allotment bears to the total of all such States' allotments. Any amount made available to a State for any fiscal year pursuant to such reallocation shall be regarded as an increase of such State's allotment for such year.

(c) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment pursuant to paragraphs (a) and (b) of this section between such agencies is a matter for State determination.

(d) The total Federal financial participation in the expenditures for construction for a fiscal year may not exceed 10 per centum of the State's allotment for such year. The amount of the State's share of expenditures for vocational rehabilitation services other than for the establishment of rehabilitation facilities or for construction of rehabilitation facilities shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding 3 fiscal years.

§ 1361.86 Payments for allotments for vocational rehabilitation services.

(a) Except as provided in § 1361.85(d) the Commissioner shall pay to each State an amount equal to the Federal share of the cost of vocational rehabilitation services under its approved State plan, including the cost of expenditures for the administration of the plan. The Federal share for each State shall be 80 per centum, except for expenditures to meet the cost of construction of rehabilitation facilities.

(b) If the payment to a State for any fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment, equal to the difference between such payments and the amount so received by it. Such additional payment shall be subject to the same terms and conditions applicable to other payments made under this subpart.

(c) (1) The total of payments to a State under this section for any fiscal year may not exceed its allotment under § 1361.85 and any additional payment under § 1361.86(b) increasing such allotment for such year and such payments shall not be made which would result in a violation of the provision specified in § 1361.85(d).

(2) Amounts otherwise payable to a State under this section for any fiscal year shall be reduced by the amount (if any) by which expenditures from non-Federal sources, as specified in § 1361.80 (except for expenditures with respect to which the State is entitled to payments under Subpart F of this part) for such fiscal year under such State's approval plan for vocational rehabilitation services are less than such expenditures under such plan for the fiscal year ending June 30, 1972. The expenditures under the State plan for fiscal year 1972, pursuant to the preceding sentence, shall be determined on the basis of such information, including reports from the States, as the Rehabilitation Services Administration had on June 30, 1973. If a reduction in payments for any fiscal year is required in the case of a State where separate agencies administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, such reduction shall be made in direct relation to the amount by which expenditures from non-Federal sources under each part of the plan are less than they were under that part of the plan during the fiscal year ending June 30, 1972.

(d) Payments made under this part shall be subject to the condition that the State's performance in conducting a vocational rehabilitation program shall meet the general standards for evaluation developed by the Secretary under Part 1362 and Part 1370 of this chapter. In cases where a State's performance fails to meet such general standards, payments may be withheld pursuant to the provisions of § 1361.5.

§ 1361.87 Method of computing and making payments.

(a) *Estimates.* The Commissioner shall, prior to the beginning of each fiscal quarter or other period prescribed by him, estimate the amount to be paid to each State from its allotment for vocational rehabilitation services under section 110 of the Act, and its allotment for innovation and expansion projects under section 120 of the Act. This estimate will be based on such records of the State and information furnished by it, and such other investigation, as the Commissioner may find necessary.

(b) *Payments.* The Commissioner shall pay, from the allotment available therefor, the amount so estimated for such period. In making any such payment, such additions and subtractions will be made as the State's accounting for any prior period and audit thereof may indicate as necessary in balancing the Federal-State account for any such prior period. Payments shall be made prior to audit or settlement by the General Ac-

counting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

§ 1361.88 Effects of payments.

(a) Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any requirement of the Act or of this part.

(b) The final amount to be paid for any period is determinable on the basis of expenditures under the State plan for which Federal financial participation is authorized. The State shall assume full responsibility for the application of Federal funds to authorized plan purposes.

§ 1361.89 Refunds.

Any amount refunded or repaid to the State shall be credited to the Federal account in proportion to the Federal participation in the expenditures by reason of which such refunds or repayments were made, and such sums shall be considered as granted from the State's allotment.

§ 1361.90 Determining to which fiscal year an expenditure is chargeable.

In determining to which Federal fiscal year expenditures are chargeable, States shall be governed by the following:

(a) Expenditures are chargeable to a particular fiscal year in accordance with State laws or regulations. In the absence of applicable provisions of State laws or regulations, the actual date of the expenditure will be controlling.

(b) In the event that a State's fiscal year does not coincide with the Federal fiscal year, appropriate State laws or regulations governing the recording of expenditures will govern.

(c) In those States which appropriate funds for a biennium, the principles provided in State laws, regulations and practices, for determining to which year of the biennium an expenditure is charged will apply.

§ 1361.91 Audits.

(a) Annually, or at such frequencies as are considered necessary and appropriate, the operations of the State agency shall be audited by representatives of the Audit Agency of the Department. Such audits shall be made to determine whether the State agency is being operated in a manner that

(1) Encourages prudent use of program funds, and

(2) Provides a reasonable degree of assurance that funds are being properly expended for the purpose for which appropriated and provided under the Act and State plan.

(b) Reports of audits shall be released by the Audit Agency to the Secretary and to the State administrator specified under § 1361.8. The audit reports represent the opinion of the Audit Agency on the practices reviewed and the allowability of expenditures audited as the State agency. Final determination as to action

to be taken shall be made by the Secretary.

§ 1361.92 Appeals procedures and expenditures settlement.

The State agency shall have the right to appeal proposed audit exceptions in which it has not concurred. Expenditures in which it is found the Federal Government may not participate and which are not properly adjusted through the State's claim shall be deducted from subsequent grants made to the State agency.

Subpart D—Payment of Costs of Vocational Rehabilitation Services for Disability Beneficiaries From the Social Security Trust Funds

§ 1361.110 General.

(a) Section 222 of the Social Security Act provides for the payment from the trust funds of costs of vocational rehabilitation services furnished to disability beneficiaries. Within the limits authorized under section 222, trust funds will be available for payment by the Commissioner to the States to provide for vocational rehabilitation services (and related costs of administration) for disability beneficiaries under State plans approved under the Act.

(b) To receive trust funds for vocational rehabilitation, each State agency is required to submit an amendment to its State plan which sets forth its policy and procedures for providing vocational rehabilitation services to disability beneficiaries in keeping with the purpose as stated below and which meets the requirements and conditions prescribed herein.

§ 1361.111 Purpose.

With the purpose of making it possible for more disability beneficiaries to receive vocational rehabilitation services, money is made available from the trust funds to finance the vocational rehabilitation of selected beneficiaries. This money will be used in such a way that the saving from the amount of benefits that would otherwise have to be paid and the increased contributions to the trust funds paid by virtue of the earnings of beneficiaries who return to work will exceed, or at least equal, the money paid from the trust funds for rehabilitation costs.

§ 1361.112 Applicability of other regulations.

The provisions governing vocational rehabilitation services to disability beneficiaries, the costs of which are paid from trust funds, must conform to all requirements elsewhere in this part governing the State vocational rehabilitation programs which are not inconsistent with the requirements prescribed in this subpart.

§ 1361.113 Definitions.

(a) "Disability beneficiary" means a disabled individual who is entitled to benefits under section 223 of the Social Security Act (including disabled individuals serving a waiting period prior to

such entitlement), a disabled individual age 18 or over who is entitled to child's insurance benefits under section 202(d) of the Social Security Act, or a disabled widow, widower, or surviving divorced wife under sections 202 (e) and (f) of the Social Security Act.

(b) "Productive activity" means full-time employment, part-time employment, or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in the termination of entitlement to disability insurance benefits or in the nonpayment of benefits where entitlement is based on statutory blindness.

(c) "Trust Funds" means funds derived from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for purposes of vocational rehabilitation pursuant to section 222(d) of the Social Security Act.

§ 1361.114 State plan requirements.

For a State to receive trust funds the State plan must contain the following provisions regarding vocational rehabilitation services to disability beneficiaries.

(a) *Conformance to selection criteria.* The State plan shall provide that, to the extent funds provided from the trust funds are adequate for that purpose, vocational rehabilitation services will be furnished to disability beneficiaries in the State who the State determines on the basis of medical, vocational, social, personal, or other factors are eligible for services and who meet the following requirements:

(1) The disabling impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services to the extent that restoration of the beneficiary to productive activity is precluded;

(2) The disabling effect of the impairment, without the services planned, is expected to remain at a level of severity which would result in the continuing payment of disability benefits;

(3) There is a reasonable expectation that the provision of services will enable the individual to engage in productive work activity; and

(4) The reasonably predictable period of productive work activity is of sufficient duration that the benefits to be saved and the contributions which would be paid to the trust funds on future earnings would offset the cost of the services planned.

(b) *Order of selection.* To the extent that funds provided for this purpose are adequate, the State plan shall provide that the order of selection for services shall be in accordance with the beneficiary's readiness and potential for rehabilitation to productive activity and without regard to any other order of selection set forth in the State plan.

(c) *Citizenship, residence, and economic need.* The State plan shall provide that any disability beneficiary who meets the other requirements for selection for

vocational rehabilitation services shall be provided with authorized services without regard to

- (1) citizenship, or
- (2) place of residence, or
- (3) need for financial assistance.

(d) *Promptness of services.* The State plan shall provide that services will be furnished with reasonable promptness to disability beneficiaries selected under paragraphs (a), (b), and (c) of this section.

(c) *Services available.* The State plan shall provide that vocational rehabilitation services available to disability beneficiaries selected for such services shall include the full range of services authorized in the Act, to the extent that such services are consistent with this subpart, subject to the conditions and limitations with respect to the use of trust funds prescribed in § 1361.115.

(f) *Staff, supervision and training.* The State plan shall provide for staff, supervision, and training of personnel to carry out the functions of this subpart in an effective manner.

§ 1361.115 Conditions and limitations.

Costs of vocational rehabilitation services (and administration) paid from trust funds shall be subject to the following conditions and limitations:

(a) Trust funds will not be used to pay costs of establishment or construction of a rehabilitation facility.

(b) Trust funds will not be used to pay the costs of maintenance while an individual is receiving vocational rehabilitation services unless it is necessary for the individual to be away from home to receive such services. The costs of such maintenance shall not exceed the amount of increased expenses that are necessitated by the rehabilitation program.

(c) Where trust funds are used to pay the cost of equipment, initial stock and supplies, including that for a vending stand or other small business enterprise, for the rehabilitation, of a beneficiary, the State agency shall establish appropriate controls to assure that such equipment and stock no longer required by that beneficiary are utilized by another beneficiary. When it is unlikely that such equipment and stock will be needed by another beneficiary within a reasonable period of time, it may be disposed of according to usual State agency procedures with appropriate credit to the trust funds.

§ 1361.116 Payments of trust funds.

(a) *Payment and distribution of funds.* (1) Payment from available trust funds may be made in advance or by way of reimbursement for agency costs of providing services (including administration) under an approved amended State plan.

(2) In distributing funds to the States, the Commissioner will consider agency estimates, the number of disability beneficiaries in the State, and such other factors as the Secretary may determine.

(3) The Commissioner will make necessary adjustments or redistribution on account of overpayments, underpayments, and unused funds.

(b) *Payments for services and administration.* (1) Payment from trust funds may be made for the cost of determining the eligibility for and the character of vocational rehabilitation services needed by a disability beneficiary, or a claimant for disability benefits, if it appears there is a strong likelihood that such claimant will be found entitled to such disability benefits (even though later it is not so found), to the extent that such costs were incurred with respect to such claimant prior to the receipt by the State agency of notice of a determination of nonentitlement.

(2) Other authorized services provided prior to determination of entitlement to persons meeting the selection criteria may be paid for from trust funds if and when the State agency receives notice that the individual has been determined to be entitled to disability benefits.

(3) In no case, however, may services be paid for from the trust funds which are provided before

(i) The effective date of the approved amended State plan,

(ii) The beginning of the period of disability, or

(iii) The filing of application for disability benefits, whichever is latest, or in the case of a disabled child the date of entitlement to child's benefits because of disability.

(c) *Reversal of determination of non-entitlement for disability benefits.* Payment from the trust funds for services which have been rendered to a claimant otherwise eligible therefor who has been found not entitled to disability benefits may, if such finding is later reversed on reconsideration, appeal, or judicial review, be made retroactively for the fiscal year in which notice of the reversal is received by the State agency, provided at that time services consistent with the purpose of this subpart are being currently rendered to the claimant.

(d) *Termination of disability benefits.* Payment for services after receipt by the State agency of notice that entitlement to disability benefits has terminated shall not be made from trust funds, except when the services have been started and the individual case plan reflects that commitments of monies were made for those services prior to receipt of notice of such termination, i.e., written contracts, purchase orders, or equivalent authorizations have been issued, or lump sum payment may have been required to have been made in advance such as in the case of tuition or training expenses. In no case may payment be made for costs of services extending more than four months after the month in which entitlement to disability benefits terminates or in which notice that entitlement to disability benefits has terminated is received by the State agency, whichever is later.

§ 1361.117 Budgets.

Periodically, as may be required, the State shall prepare and submit a budget estimate of trust funds needed to pay the costs of vocational rehabilitation services for disability beneficiaries and for the administration of such services.

§ 1361.118 Reports.

The State shall submit reports of expenditures and case services activities in behalf of beneficiaries, in such form and in such detail and frequency as determined necessary by the Commissioner. All records, procedures, and operational activities of the State agency, the costs of which are paid from trust funds shall be subject to evaluative study, inspection, review, and audit.

Subpart E—Vocational Rehabilitation Services for Supplemental Security Income Recipients

§ 1361.120 General.

(a) Section 1615 of the Social Security Act provides for the referral of blind or disabled supplemental security income recipients who are under age 65 to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 and for a periodic review of their need for and utilization of available vocational rehabilitation services. Individuals so referred must accept such vocational rehabilitation services as are made available, unless there is good cause to refuse. Authorization is provided to pay the State agency the costs incurred in the provision of such services to individuals so referred.

(b) Funds appropriated under this authority will be made available for payment by the Commissioner for vocational rehabilitation services (and related costs of administration) provided under the State plan approved under the Rehabilitation Act of 1973.

(c) To receive Federal funds for services under this subpart, each State agency is required to submit an amendment to its State plan which sets forth the policies and procedures for providing services to blind and disabled recipients in keeping with the purpose as stated below and which meets the requirements and conditions prescribed herein.

§ 1361.121 Purpose.

The purpose of the provision of vocational rehabilitation services as authorized in this subpart is to enable a maximum number of recipients to increase their employment capacity to the extent that they can engage in productive activity.

§ 1361.122 Applicability of other regulations.

The provisions governing vocational rehabilitation services to supplemental security income recipients, the costs of which are paid from supplemental security income program funds, must con-

form to all requirements elsewhere in this part governing the State vocational rehabilitation programs which are not inconsistent with the requirements prescribed in this subpart.

§ 1361.123 Definitions.

(a) "Supplemental security income recipient", or "recipient", as used in this subpart, means an individual who is receiving cash payments (or with respect to whom payments are made) under the supplemental security income program based on blindness or disability.

(b) "Productive activity" means full-time employment, part-time employment, or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in termination of eligibility for supplemental security income payments, or at least a substantial reduction of such payments in accord with income exclusions applying to the blind as specified in 20 CFR Part 416, Subpart K.

§ 1361.124 State plan requirements.

For a State to receive Federal funds appropriated for this purpose, the State plan must contain the following provisions regarding vocational rehabilitation services to supplemental security income recipients.

(a) *Conformance to selection criteria.* The State plan shall provide that, to the extent funds appropriated are adequate for the purpose, vocational rehabilitation services will be furnished to recipients in the State who the State determines on the basis of medical, vocational, social, personal, or other factors are eligible for services and who meet the following requirements:

(1) The disabling impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services to the extent that restoration of the recipient to productive activity is precluded;

(2) The disabling effect of the impairment, without the services planned, is expected to remain at a level of severity which would result in the continuing eligibility of the recipient;

(3) There is a reasonable expectation that the provision of services will enable the individual to engage in productive activity; and

(4) The reasonably predictable period of productive work activity is of sufficient duration that the expenditures made for services are expected to be offset by the non-payment or substantial reduction of supplementary security income payments which otherwise would be made to the individual.

(b) *Order of selection.* To the extent that the funds appropriated for this purpose are adequate, the State plan shall provide that the order of selection for services shall be in accordance with the recipient's readiness and potential for rehabilitation to productive activity and

without regard to any other order of selection set forth in the State plan.

(c) *Economic need test.* The State plan shall provide that any recipient who meets the other requirements for vocational rehabilitation services through the use of supplemental security income program funds shall be provided authorized services without regard to any economic need test set forth in the State plan.

(d) *Promptness of services.* The State plan shall provide that services will be furnished with reasonable promptness to recipients selected under paragraphs (a), (b), and (c) of this section.

(e) *Services available.* The State plan shall provide that vocational rehabilitation services available to recipients selected for such services shall include the full range of services authorized in the Act, to the extent that such services are consistent with the purpose of this subpart, and subject to the limitations with respect to the use of supplemental security income program funds prescribed in § 1361.125.

(f) *Staff, supervision and training.* The State plan shall provide for staff, supervision, and training of personnel to carry out the functions of this subpart in an effective manner.

§ 1361.125 Conditions and limitations.

Costs of vocational rehabilitation services (and administration) paid from supplemental security income program funds shall be subject to the following conditions and limitations:

(a) Supplemental security income program funds will not be used to pay costs of establishment or construction of a rehabilitation facility.

(b) Supplemental security income program funds will not be used to pay the costs of maintenance while an individual is receiving vocational rehabilitation services unless it is necessary for the individual to be away from home to receive such services. The costs of such maintenance shall not exceed the amount of increased expenses that are necessitated by the rehabilitation program.

(c) Where supplemental security income program funds are used to pay the cost of equipment, initial stock and supplies, including that for a vending stand or other small business enterprise, for the rehabilitation of a recipient, the State agency shall establish appropriate controls to assure that such equipment and stock no longer required by that recipient are utilized by another recipient. When it is unlikely that such equipment and stock will be needed by another recipient within a reasonable period of time, it may be disposed of according to usual State agency procedures with appropriate credit to the supplemental security income program funds.

§ 1361.126 Payments of supplemental security income program funds.

(a) *Payment and distribution of funds.* (1) Payment from available funds may be made in advance or by way of reimbursement for agency costs of providing

services (including administration) under an approved amended State plan.

(2) In distributing funds to the States, the Commissioner will consider agency estimates, the number of recipients in the State, and such other factors as the Commissioner may determine.

(3) The Commissioner will make necessary adjustments or redistribution on account of overpayments, underpayments, and unused funds.

(b) *Payments for services and administration.* (1) Payment from supplemental security income program funds may be made for the cost of determining the eligibility for and the character of vocational rehabilitation services needed by a recipient, or an applicant for supplemental security income payments, if it appears there is a strong likelihood that such applicant will be found eligible for supplemental security income (even though later it is not so found), to the extent that such costs were incurred with respect to such applicant prior to the receipt by the State agency of notice of a determination of ineligibility.

(2) Other authorized services provided prior to determination of eligibility for supplemental security income payments to persons meeting the selection criteria may be paid for from supplemental security income program funds if and when the State agency receives notice that the individual has been determined to be eligible for such payments.

(3) In no case, however, may services be paid from supplemental security income program funds which are provided before (i) the effective date of the approved amended State plan, or (ii) the beginning date of the individual's eligibility for supplemental security income payments, whichever is later.

(c) *Reversal of determination of ineligibility for supplemental security income payments.* Payment from supplemental security income program funds for services which have been rendered to an applicant otherwise eligible therefore who has been found not eligible for supplemental security income payments may, if such finding is later reversed on reconsideration, appeal, or judicial review, be made retroactively for the fiscal year in which notice of the reversal is received by the State agency, provided at that time services consistent with the purpose of this subpart are being currently rendered to the recipient.

(d) *Termination of supplemental security income payments.* Payment for services after receipt by the State agency of notice that eligibility for supplemental security income payments has terminated shall not be made from supplemental security income program funds, except when the services have been started and the individual case plan reflects that commitments of monies were made for those services prior to receipt of notice of such termination, i.e., written contracts, purchase orders, or equivalent authorizations have been issued, or lump sum payment may have been required to have been made in advance such as in the case of tuition or training expenses. In no case may payment be made for costs of services extending more than

four months after the month in which eligibility for supplemental security income payments terminates or in which notice that eligibility for supplemental security income payments has terminated is received by the State agency, whichever is later.

§ 1361.127 Budgets.

Periodically, as may be required, the State shall prepare and submit a budget estimate of supplemental security income program funds needed to pay the costs of vocational rehabilitation services for recipients and for the administration of such services.

§ 1361.128 Reports.

The State shall submit reports of expenditures and case services activities in behalf of recipients, in such form and in such detail and frequency as determined necessary by the Commissioner. All records, procedures, and operational activities of the State agency, the costs of which are paid from supplemental security income program funds, shall be subject to evaluative study, inspection, review, and audit.

Subpart F—Grants for Innovation and Expansion of Vocational Rehabilitation Services

§ 1361.150 Purpose.

Under section 121(a) of the Act, grants may be made for the purpose of paying a portion of the cost of planning, preparing for, and initiating special programs under the State plan in order to expand vocational rehabilitation services, including:

(a) Programs to initiate or expand such services to the most severely handicapped, or

(b) Special programs to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor and the responsibility for whose treatment, education, and rehabilitation is shared by the State agency with other agencies.

§ 1361.151 Special project requirements.

(a) All project activities to be performed under this subpart must either be included within the scope of the approved State plan, or such State plan must be amended to include them.

(b) Grants may be made to a State agency, or at the option of the State agency, to a public or nonprofit organization or agency.

(c) The approval of the appropriate State agency shall be secured prior to the granting of any funds to any organization or agency other than the State agency for the provision of direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals.

(d) Written program descriptions of activities to be conducted under grants under this subpart, including a budget for the support of such activities, shall be submitted in the form and detail and

in accordance with procedures, required by the Commissioner.

(e) Federal financial participation in the cost of any project under this subpart shall not exceed a period of 36 months.

(f) Any project activities in which there are human subjects at risk shall be conducted in accordance with the requirements of Part 46 of this title concerning the Protection of Human Subjects.

(g) In order to receive assistance under this subpart, a public or other nonprofit organization or agency, including a public or other nonprofit rehabilitation facility, will develop and implement an affirmative action plan for equal employment opportunity and advancement opportunity for qualified handicapped individuals. Such affirmative action plan shall provide for specific action steps, timetables, and complaint and enforcement procedures to assure such equal opportunities. Such organization or agency shall also assure that it will comply with all requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

§ 1361.152 Allotment of Federal funds.

(a) From the sums available for any fiscal year for grants to States to assist them in meeting the costs of approved projects, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. Population, as applied to any State, means the population of that State as determined by official estimates furnished by the Department of Commerce to the Commissioner by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated. For any fiscal year an allotment which is less than \$50,000 to any State shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total of time in excess of three years. The total of the increases shall be derived by proportionately reducing the allotments to each of the remaining States but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than \$50,000.

(b) If at any time after the start of any fiscal year, or after a review by the Commissioner after March 1 of such fiscal year, the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purpose of this subpart, he shall make such amount available to one or more other States which he determines will be able to use additional amounts during such fiscal year for carrying out the purposes of this subpart. Any amount made

available to any State for any fiscal year pursuant to this paragraph of this section shall be regarded as an increase in such State's allotment for such year.

(c) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment between such agencies is a matter for State determination.

(d) Within each State's allotment, the Commissioner may require that up to 50 per centum of available funds must be expended in connection with projects which he has first approved. If the Commissioner so requires, he will notify the States of his priorities for the use of funds under this subpart for the fiscal year ending June 30, 1974, within 30 days following the effective date of this subpart and at least 90 days prior to the beginning of each fiscal year thereafter.

§ 1361.153 Payments from allotments.

From the sums allotted pursuant to § 1361.152, the Commissioner shall pay to each State, with respect to any project approved under this subpart, an amount up to 90 per centum of the costs of such project, consistent with annual instructions or program guidelines.

§ 1361.154 Methods of computing and making payments.

The methods of computing and paying amounts pursuant to § 1361.155 shall be in accordance with provisions of § 1361.87. The provisions of § 1361.88 through § 1361.90 are also applicable to this subpart.

§ 1361.155 Federal financial participation.

(a) Federal financial participation shall be available for:

- (1) Personnel (including fringe benefits);
- (2) The provision of vocational rehabilitation services;
- (3) Equipment;
- (4) Supplies;
- (5) Consultant expenses;
- (6) Staff or consultant travel; and
- (7) Such other allowable costs under the State plan as are set forth in the budget.

(b) No payment shall be made from an allotment under section 121(a) of the Act with respect to any cost of a project for which payment has been made under any other section of the Act.

§ 1361.156 Matching requirements.

(a) The non-Federal share may be in cash or in-kind and may include funds spent for project purposes by a cooperating public or private nonprofit agency: *Provided*, That such cash or in-kind contributions are not included as a cost in any other Federally financed program.

(b) For purposes of this subpart, Federal financial participation will be provided pursuant to the matching and cost-sharing requirements prescribed by Subpart G of Part 74 of this title.

§ 1361.157 Other administrative requirements.

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart.

§ 1361.158 Reports.

The grantee will make such reports in such form and containing such information as the Commissioner may require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports. Such reports shall include an annual report of program accomplishments which shall reflect the extent to which programs of vocational rehabilitation services have been initiated or expanded for the most severely handicapped individuals or for other individuals who have unusual and difficult problems in connection with their rehabilitation. Where applicable, such report shall include an evaluation of the in-kind component as it affects the provision of vocational rehabilitation services within the project.

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AUTHORITY: Sec. 400(b), 87 Stat. 385 (29 U.S.C. 780(b)).

Subpart A—General Provisions

§ 1362.1 Terms.

For purposes of this part—

(a) The terms "Act," "blind," "Commissioner," "construction of a rehabilitation facility," "Department," "employability," "establishment of a rehabilitation facility," "handicapped individual," "local agency," "maintenance," "nonprofit," "physical or mental disability," "rehabilitation facility," "Secretary," "severely handicapped individual," "State," "State agency," "State plan," "vocational rehabilitation services," "works of art," "workshop," shall, except where the context indicates otherwise, have the same meaning as set forth in § 1361.1 of this chapter.

(b) "Applicant" means and eligible party seeking Federal financial assistance and may include in certain cases an offeror for a contract as well as an applicant for a grant.

(c) "Demonstration" means—

(1) A pilot study or experimental attempt to provide more and better vocational rehabilitation services than are available for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in the vocational rehabilitation program; or

(2) Provision of a special type of rehabilitation service in order to test its value in rehabilitation and to provide information on costs, methods of administration, methods of providing services, or rehabilitation techniques; or

(3) Provision of vocational rehabilitation services to handicapped individuals in a specific disability category not adequately served; or

(4) Application in new settings of the results derived from previous research or practice for the purpose of determining the effectiveness of new rehabilitation procedures.

(d) "Project period" means the total period of time for which a project is approved for grant support with Federal funds. Such period may be extended beyond the project period solely to permit continuation or completion of the same approved project by use of funds previously awarded. The approval and support of any project under this part for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated and approved on the same basis as an initial application.

§ 1362.2 Evaluation of project activities.

Activities provided Federal support under this part shall be evaluated according to the general standards for evaluation developed by the Secretary under Subpart G (Program and Project Evaluation) of this part. In evaluating the effectiveness of such activities, consideration shall be given to both individual project performance and the total effect of a group of projects of a similar type on the achievement of program purposes. The extent to which such general standards for evaluation have been met shall be considered in deciding whether to continue, renew or supplement any Federal financial assistance under this part.

§ 1362.3 General administrative requirements.

(a) The following provisions of Part 74 of this title, implementing OMB Circular A-102, "Uniform administrative requirements for grants-in-aid to State and local governments," and establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as defined in Subpart A of Part 74 of this title. Except for grantees from other countries under § 1362.67 (International rehabilitation research, demonstration and training), such provisions of Part 74 of this title shall apply also to grants to all other grantee organizations under this part:

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Subpart:	Subject
A -----	General.
B -----	Cash Depositories.
C -----	Bonding and Insurance.
D -----	Retention and Custodial Requirements for Records.
F -----	Grant-Related Income.
H -----	Standards for Grantee Financial Management Systems.
I -----	Financial Reporting Requirements.
J -----	Monitoring and Reporting of Program Performance.
K -----	Grant Payment Requirements.
L -----	Budget Revision Procedures.
M -----	Grant Closeout, Suspension and Termination.
N -----	Forms for Applying for Grants.
O -----	Property.
P -----	Procurement Standards.
Q -----	Cost Principles.

(b) Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations, and Department policy. Applicable cost principles are those principles specified in the Federal Procurement Regulations in 41 CFR Part 1-15.

§ 1362.4 Application content and procedures.

All applications for Federal support under this part shall be submitted in the form and detail, and in accordance with procedures, required by the Commissioner.

§ 1362.5 State agency review and approval.

(a) The appropriate State agency shall be afforded reasonable opportunity to review and comment on all applications and other requests for Federal support submitted under this part.

(b) The approval of the appropriate State agency shall be secured by the applicant, if other than the State agency, for any application submitted under Subpart B (Projects for the Provision of Vocational Rehabilitation Services), or Subpart C (Assistance for Rehabilitation Facilities) of this part, except where the scope of the proposed project activities extends beyond a single State.

(c) The approval of the appropriate State agency shall also be secured by the applicant, if other than the State agency, for any project under this part which involves the provision of direct services to handicapped individuals.

§ 1362.6 Scientific and technical peer review.

(a) Any application submitted under Subpart D (Rehabilitation Research) or Subpart E (Rehabilitation Training) of this part, and any application submitted under § 1362.40 or § 1362.41 of Subpart B of this part with special implication for rehabilitation research or training, shall receive a scientific and technical review in a group meeting of experts in an appropriate field of rehabilitation, who are not Federal employees. Such peer review shall be conducted in coordination with

peer review groups established within such Federal agencies as the National Institutes of Health when such groups have expertise in matters pertaining to research or training related to the treatment and rehabilitation of handicapped individuals. Peer review groups consulting under the Act shall:

(1) Make recommendations concerning the technical merit of research and training applications prior to the awarding of funds;

(2) Make recommendations concerning the technical merit of rehabilitation research and training aspects of applications for the support of special projects under § 1362.40 and § 1362.41 of this part; and

(3) Provide guidance in the dissemination and application of findings resulting from rehabilitation research and training activities.

(b) Scientific and technical experts, recipients of vocational rehabilitation services, providers of vocational rehabilitation services, and administrators of vocational rehabilitation service programs shall also be utilized within a rehabilitation services policy advisory group to provide overall guidance in formulating objectives, setting priorities, reviewing implementation activities, and in reviewing short-term and long-range plans affecting rehabilitation research, rehabilitation training, and the delivery of vocational rehabilitation services.

§ 1362.7 Awards.

All awards under this part shall be in writing and shall constitute for such amounts the encumbrance of Federal funds available for such purposes on the date of the award. The award shall also specify the project period for which support is contemplated.

§ 1362.8 Federal financial participation.

(a) Federal financial participation shall be available under this part for only those activities approved in the grant award in accordance with the applicable provisions of the Act and only in the total amount approved in the award.

(b) Except where otherwise indicated, Federal financial participation under this part may be available for costs of

(1) Personnel (including fringe benefits);

(2) Purchase or rental of equipment;

(3) Supplies;

(4) Travel;

(5) Consultant expenses;

(6) Provision of vocational rehabilitation services to handicapped individuals and other individuals served by the project;

(7) Administration and other indirect costs of the project (except for projects under § 1362.51 (Grants for construction of rehabilitation facilities) and § 1362.52 (Initial staffing grants));

(8) Minor alterations of buildings when essential to the successful conduct of the project; and

(9) Such other costs, as approved by the Commissioner.

Unless specifically indicated, Federal financial participation will not be avail-

able for costs of acquiring, expanding, remodeling or altering any building. Costs applicable to grants under this part shall be determined pursuant to the requirements of Subpart Q of Part 74 of this title.

(c) No Federal financial participation may be furnished under this part in the cost of activities for which payment is made under another part of this chapter, or other authority.

(d) In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress.

(e) Matching or cost sharing represents, in general, that portion of project costs not borne by the Federal government and may consist of the following: (1) Grantee cash outlays including the outlay of funds contributed to the grantee by third parties, (2) Grantee non-cash contributions which consist of charges for the use of or depreciation on real or non-expendable personal property owned by the grantee.

§ 1362.9 Payments.

Payments of the Federal share of an approved project or other activity under this part may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance for estimated costs of operation, or as reimbursement, and in such installments and subject to such requirements as the Commissioner may establish. Such payments shall be made pursuant to the requirements of Subpart K of Part 74 of this title.

§ 1362.10 Consultant fees.

Fees for consultant services under this part (except under Subpart H) are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties in another position for which there is Federal financial participation under the Act, or which conflict with his duties in such other position.

§ 1362.11 Grant-related income.

The provisions of Subpart F of Part 74 of this title apply to grantees under this part.

§ 1362.12 Project revision.

(a) A grantee shall request that the project be revised whenever the approved program or financial plan of operation of the project is proposed to be materially changed. Program revisions originating with the grantee shall be submitted in writing and will be given appropriate review prior to consideration for approval by the Commissioner.

(b) Program revisions may be initiated by the Commissioner, if on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing these grants.

(c) Budget revisions shall be made pursuant to the requirements of Subpart L of Part 74 of this title.

§ 1362.13 Grant closeout, suspension, and termination.

Grants shall be closed out, suspended, or terminated in accordance with Subpart M of Part 74 of this title.

§ 1362.14 Grant appeals.

When a post-award decision has been made which the grantee determines to be adverse, he may appeal such decision to the Departmental Grant Appeals Board pursuant to procedures prescribed in Part 16 of this title: *Provided*, That such decision is of a type defined in § 16.5 of such part as subject to the jurisdiction of such Board.

§ 1362.15 Reports.

Reports shall be made to the Commissioner in such form and containing such information as may reasonably be necessary to enable the Commissioner to perform his functions under this part.

§ 1362.16 Retention of records.

(a) Financial records, supporting documents, statistical records, and all other pertinent records shall be maintained in accordance with the requirements of Subpart D of Part 74 of this title.

(b) Studies, evaluation, and program data developed within activities supported under this part shall be maintained for a period of three years after the termination of Federal support unless otherwise specified by the Commissioner.

§ 1362.17 Audit.

All fiscal transactions relating to Federal support under this part are subject to audit by the Federal government to determine whether expenditures have been made in accordance with the Act, the regulations, and other requirements.

§ 1362.18 Conflict of interest.

Assurance must be given that individuals participating in the project will not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

§ 1362.19 Patents.

In accordance with Department Regulations (45 CFR Subtitle A, Parts 6 and 8), all inventions made in the course of or under any grant or contract under this part shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare. The project director and other project staff shall neither have nor make any commitments or obliga-

tions which conflict with the requirements of this policy. Determination as to ownership and disposition of rights to such inventions shall be made pursuant to § 74.139 of Part 74 of this title.

§ 1362.20 Publications and copyright policy.

(a) The results of any activity supported under this part may be published without prior review by the Rehabilitation Services Administration: *Provided*, That such publications carry a footnote acknowledging the Federal support received and stating that interpretations of data do not necessarily represent interpretations of the Rehabilitation Services Administration: *And provided, further*, That copies of such publications are furnished to the Department.

(b) Where a project activity leads to the publication of a book or other copyrightable material, the author is free to copyright the work, but the Rehabilitation Services Administration reserves royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity. In such cases, the book or other material shall contain a notice of such license.

§ 1362.21 Confidential information.

(a) All information obtained as to personal facts about individuals served by any project under this part, including lists of names, addresses, photographs, and records of evaluation, shall be held to be confidential.

(b) The use of such information and records shall be limited to purposes directly connected with the project and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the agency providing the information and the individual to whom the information applies, or his representative, have been obtained in writing. The final product of the project will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent, or the written consent of his representative.

§ 1362.22 Collection of data from State agencies.

Applicants for Federal support under this part for activities which will require the collection of data from either handicapped individuals being served by two or more State agencies or employees of two or more such agencies, shall submit requests for anticipated data to the appropriate representatives of such agencies, as determined by the Commissioner, prior to the submittal of applications and shall further provide assurance that similar requests shall be submitted to such representatives if the need for the collection of such data becomes evident during the course of the project. This provision shall also apply to individuals employed in projects supported under this part and individuals enrolled in courses of study within such projects.

§ 1362.23 Services to handicapped individuals.

Vocational rehabilitation services provided to handicapped individuals in rehabilitation facilities or other settings assisted under this part shall be provided according to standards consistent with the provision of services under the State plan under Part 1361 of this chapter.

§ 1362.24 Protection of human subjects.

Safeguarding the rights and welfare of human subjects at risk in activities supported under grants and contracts from the Department is the principal responsibility of the organization which receives or is accountable to the Department for the funds awarded for the support of such activity. In order to provide for the adequate discharge of this organizational responsibility, no activity involving any human subjects at risk supported by a grant or contract from the Department shall be undertaken unless the organization has reviewed and approved such activity and has submitted to the Secretary a certification of such review and approval in accordance with the requirements of Part 46 of this title concerning the Protection of Human Subjects.

§ 1362.25 Nondiscrimination for reason of handicapping condition.

No qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program, project, or activity supported under this part. No qualified individual shall be denied employment in any program, project, or activity supported under this part solely because of a physical or mental disability.

§ 1362.26 Affirmative action plan.

Applications for Federal support under this part shall specify that the grantee will develop and implement a plan to take affirmative action to employ and advance in employment qualified handicapped individuals. Such plan shall provide for specific action steps, timetables and complaint and enforcement procedures necessary to assure such affirmative action.

§ 1362.27 Wage and hour standards for workshops.

Applications for Federal support under this part from workshops shall specify that applicable Federal and State wage and hour standards will be observed.

§ 1362.28 Standards for rehabilitation facilities and workshops.

Applications for Federal support under this part from rehabilitation facilities or workshops shall take into consideration any standards and criteria established by the Commissioner.

§ 1362.29 Nondiscrimination in employment in projects in which construction is to be performed.

Applicants for grants under this part which provide for construction, includ-

ing minor alterations, shall specify that construction contracts paid for in whole or in part with funds obtained from the Federal government under this part shall include such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246 and will otherwise comply with requirements prescribed by and pursuant to such order. Such construction contracts will also provide for the development and implementation of a plan to take affirmative action to employ and advance in employment qualified individuals. Such plan shall provide for specific action steps, timetables and complaint and enforcement procedures necessary to assure such affirmative action. Such construction contracts will also comply with all requirements concerning nondiscrimination of handicapped individuals specified in regulations developed pursuant to section 504 of the Act.

§ 1362.30 Right to recover Federal funds.

If within 20 years after completion of any construction project, or a project which involves construction, for which funds have been paid under this part, the facility shall cease to be a public or other nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the U.S. district court for the district in which such facility is situated) of the facility, as the amount which the Federal participation bore to the cost of construction of such facility.

Subpart B—Projects for the Provision of Vocational Rehabilitation Services

§ 1362.40 Special projects and demonstrations; improved services to the severely handicapped.

(a) *Terms.* For purposes of this section—

(1) "Deaf individual whose maximum vocational potential has not been reached" means a deaf individual who has passed the age of compulsory school attendance for the State in which he resides, and whose academic and employment history indicates severely limited ability to communicate by any means; inadequate daily living and social skills; persistent lack of success in fulfilling vocational potential; and inadequate rehabilitation performance as reflected in an inability to complete a rehabilitation program in traditional rehabilitation settings.

(2) "Developmental disability" means a disability which:

(i) Is attributable to (A) mental retardation, cerebral palsy, or epilepsy; or (B) is attributable to other neurological conditions found by the Commissioner to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals;

(ii) Originated before the individual attained age 18 and has continued or can be expected to continue indefinitely; and

(iii) Constitutes a substantial handicap to the individual.

(3) "Older blind individual" means a person who is blind as defined in § 1361.1(b) of this chapter, has attained at least the age of 55, and, by reason of the combination of disability and age, is not likely to be accepted for service by a State agency under Part 1361 of this chapter.

(b) *Purpose.* Under section 304(b)(1) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially the most severely handicapped individuals, including individuals with spinal cord injuries, older blind individuals, deaf individuals whose maximum potential has not been reached, and individuals with developmental disabilities.

(c) *Eligible applicants.* Applications may be made by States and public and other nonprofit agencies and organizations.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities covered under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award and will generally be not less than 10 per centum of the total cost of the project.

(e) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8.

(f) *Project period.* A project may be approved for a project period not to exceed 3 years.

(g) *Evaluative component.* All projects and demonstrations supported under this section shall contain an evaluative component which shall measure program effectiveness.

(h) *Special considerations in projects and demonstrations providing services to individuals with spinal cord injuries.* Approved projects providing vocational rehabilitation services to individuals with spinal cord injuries, whether administered separately or within a larger program supported in part under § 1362.64, shall include provisions to

(1) Establish, on an appropriate regional basis, a multi-disciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient follow-up and services, and coordinated, to the extent possible, with similar programs of the Veterans Administration, the National Institutes of Health, and other public and private agencies and institutions;

(2) Demonstrate and evaluate the benefits of a regional service system to individuals with spinal cord injuries served in such a system and the degree of cost effectiveness so derived;

(3) Demonstrate and evaluate existing, new and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(4) Demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(i) *Special considerations in projects and demonstrations providing services to older blind individuals.* Approved projects providing vocational rehabilitation services to older blind individuals shall contain activities which will help improve public understanding of the vocational rehabilitation problems of such older blind individuals and shall also include provisions to:

(1) Demonstrate innovative methods of providing intensive rehabilitation services needed to rehabilitate such individuals; or

(2) Provide mobility training services or comprehensive counseling services not otherwise available in the locality in which individuals served by the project reside; or

(3) Conduct coordinated activities with other public or nonprofit agencies serving the blind or administering programs for older individuals under the Older Americans Act in the same area when such activities will expand or improve services for such older blind individuals.

(j) *Special considerations in projects and demonstrations providing services to deaf individuals whose maximum vocational potential has not been reached.* Approved projects providing vocational rehabilitation services to deaf individuals whose maximum vocational potential has not been reached shall be planned jointly by the State agency and the appropriate educational agency, where applicable. Such approved projects shall contain activities which will help improve public understanding of such deaf individuals and shall also include provisions to:

(1) Demonstrate innovative methods of providing the specialized services needed to rehabilitate and make maximum use of the vocational potential of such individuals; or

(2) Conduct coordinated activities with other public and nonprofit agencies administering programs for deaf persons in the same area when such activities will expand or improve services for such deaf individuals.

(k) *Special considerations in projects and demonstrations providing services to individuals with developmental disabilities.* Approved projects providing vocational rehabilitation services to handicapped individuals with developmental disabilities shall be planned jointly with the State agency and the agency administering the State's program for persons

with developmental disabilities in the locality in which the project is to be conducted, and shall also include provisions to:

(1) Initiate or expand vocational rehabilitation service programs for individuals with developmental disabilities with special rehabilitation problems resulting from the severity of their disabilities or combination of disabilities; or

(2) Demonstrate innovative techniques or methods of providing intensive vocational rehabilitation services in a manner not generally available to such individuals.

§ 1362.41 *Special projects and demonstrations; new approaches to service delivery; making recreational activities accessible to the handicapped.*

(a) *Purpose.* Under section 304(b)(2) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for applying new types or patterns of services or devices, including opportunities for new careers for handicapped individuals or other individuals in programs serving handicapped individuals. Under section 304(b)(3) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

(b) *Eligible applicants.* Applications may be made by States and public and other nonprofit agencies and organizations.

(c) *Matching requirements.* Grants may be made for paying all or part of the costs of activities covered under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award and will generally be not less than 10 per centum of the total cost of the project. In projects and demonstrations providing new career opportunities, grantees will be expected to assume an increasing percentage of the new careerist expenses in order to assure that employment commitments will be met.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for:

(1) New careerist salary and training expenses;

(2) Necessary supportive services to enable new careerists to secure employment; and

(3) In the case of a project which involves the renovation of construction of facilities, such costs as are specified in § 1362.51(d).

(e) *Project period.* A project may be approved for a project period not to exceed 3 years.

(f) *Evaluative component.* All projects and demonstrations supported under this section shall contain an evaluative component which shall measure program effectiveness.

(g) *Selection of handicapped individuals to participate in a project.* Handicapped individuals to be provided new career opportunities and supportive services under this section will be only those individuals who have been determined by the State agency to be handicapped individuals under § 1361.1(k) of this chapter.

(h) *Special considerations in projects and demonstrations providing new career opportunities.* Applicants will provide assurance that the occupations for which training is being provided offer possibilities for continuing full-time employment and realizable opportunity for promotion and advancement through structured channels of promotion.

(i) *Special consideration in projects and demonstrations for making recreational activities accessible to the handicapped.*

Approved projects to demonstrate methods of making recreational activities fully accessible to handicapped individuals shall include provisions to:

(1) Ensure conformance with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development (24 CFR, Part 40) or the Administrator of General Services (41 CFR 101-17.703) and any other standards established by the Commissioner, with the advice of the Architectural and Transportation Barriers Compliance Board, relating to the removal of architectural or transportation barriers;

(2) Focus on as broad a range of recreational activities as is appropriate to the geographical area, including indoor and outdoor recreational activities and recreational activities related to the fine arts;

(3) Ensure in those projects in which renovation or construction of facilities is involved, that such renovation or construction shall conform with all requirements specified under § 1362.51(d)-(g) of this part.

§ 1362.42 Grants for services for handicapped migratory agricultural workers or seasonal farmworkers:

(a) *Terms.* For purposes of this section—

(1) "Family members" or "members of the family" means any relative by blood or marriage of a handicapped migratory agricultural worker or seasonal farmworker and other individuals living in the same household with whom the handicapped migratory agricultural worker or the seasonal farmworker has a close interpersonal relationship, and who are with the worker, or have accompanied the worker on his migratory tour to the point in time at which the State agency comes into contact with him.

(2) "Migratory agricultural worker" means a person who occasionally or habitually leaves his place of residence on a seasonal or other temporary basis to engage in ordinary agricultural operations or in services incident to the preparation of farm commodities for the market in another locality in which he resides during the period of such employment (29 CFR Part 11).

(3) "Seasonal farmworker" means a person who on a seasonal or other temporary basis engages in ordinary agricultural operations or in services incident to the preparation of farm commodities for the market within daily commuting distance from his place of normal residence.

(4) "Transportation" means the necessary travel and related costs in connection with transporting handicapped individuals who are migratory agricultural workers or seasonal farmworkers and members of their families who are with them for the purpose of achieving the rehabilitation objectives of the handicapped migratory agricultural worker or seasonal farmworker. Transportation includes costs of travel and subsistence during travel (or per diem allowances in lieu of subsistence), and includes relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

(b) *Purpose.* Pursuant to the requirements of section 304(a) of the Act, grants may be made under section 304

(c) for the purpose of paying part of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals who are migratory agricultural workers or seasonal farmworkers and to members of their families (whether or not handicapped) who are with them, where such services are necessary to the vocational rehabilitation of the handicapped migratory agricultural worker or seasonal farmworker.

(c) *Eligible applicants.* Applications may be made by State vocational rehabilitation agencies or local agencies.

(d) *Joint projects.* A State agency may, if it so desires, enter into an agreement with the State vocational rehabilitation agencies of one or more other States to develop a cooperative program for the provision of vocational rehabilitation services under this section.

(e) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(f) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for: (1) Staff training which is determined to have significant implication for improving the capacity of the State agency to serve handicapped migratory agricultural workers or seasonal farmworkers and members of their families, including the development of staff with appropriate foreign language skills where such agricultural workers or seasonal farmworkers possess limited English-speaking ability, when such training is included within a

program of services to handicapped migratory agricultural workers or seasonal farmworkers and members of their families; and

(2) Maintenance payments which will be provided at rates consistent with rates paid to handicapped individuals under Part 1361 of this chapter.

(g) *Project period.* A project may be approved for a project period not to exceed 3 years.

(h) *Special grant considerations.* Each grant is subject to the conditions that:

(1) The applicant will furnish assurances that there will be appropriate cooperation with other public and non-profit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families, with special reference to programs dealing with migratory agricultural workers authorized under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act and the Farm Labor Contractor Registration Act of 1963;

(2) Special consideration in the design of project activities shall be given to the establishment of an effective job development and placement component and, insofar as possible, such component shall be coordinated with other agencies and organizations serving handicapped migratory agricultural workers or seasonal farmworkers;

(3) A project advisory committee shall be established by the State agency or local agency with a membership including, to the extent appropriate, handicapped migratory agricultural workers or seasonal farmworkers.

§ 1362.43 Projects with industry.

(a) *Purpose.* Under section 304(d) of the Act, contracts or jointly financed cooperative arrangements may be made with employers and organizations for the establishment of projects which are designed to prepare handicapped individuals, especially severely handicapped individuals, for gainful and suitable employment in the competitive labor market including training and employment in a realistic work setting and such other services as are necessary for such individuals to continue to engage in such employment.

(b) *Eligible employers and organizations.* Employers and organizations with whom the Commissioner may execute a contract or cooperative arrangement include any industrial, business, or commercial enterprise; labor organizations; or employer, industrial, or community trade association; or other agency or organization with the capacity to arrange, coordinate, or conduct training and other employment programs for the handicapped in a realistic work setting. Such training and employment programs shall include a planned and systematic sequence of training and instruction in occupational and employment skills, and provide reasonable assurance of gainful employment at the successful termination of such training and instruction.

(c) *Matching requirements.* Applicants for Federal support shall be expected to share the costs of projects. In such cases, the amount of the costs to be borne by the parties to the contract or arrangement will be a matter of negotiation.

(d) *Federal financial participation.* Federal financial participation within contracts or arrangements may be available for:

(1) The costs of job training and related vocational rehabilitation services;

(2) Instruction and supervision of trainees;

(3) Training materials and supplies, including consumable materials;

(4) Instructional aids;

(5) Excessive waste and scrap;

(6) Bonding fees, liability and insurance premiums;

(7) The purchase or modification of equipment adapted to the special capacity of handicapped individuals.

(8) Such minor alteration and renovation as are necessary to ensure access to and utilization of buildings by the handicapped; and

(9) Other expenses approved by the Secretary.

(e) *Prior assurances for contracts and arrangements.* Prior to entering into a contract or a cooperative arrangement with an applicant, it will first be determined that there is:

(1) Concurrence with the project by the bargaining agent where there is a collective bargaining agreement applicable to the employer and the occupation;

(2) Reasonable assurance that the wage rate to be set for trainees will not tend to create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character;

(3) No abnormal labor condition such as a strike, a lockout, or other similar conditions, existing with respect to the applicant; and

(4) Reasonable assurance that the State agency will, to the maximum extent practicable, maintain a continuing relationship with the handicapped individuals to be served in the project in order to provide, or ensure the availability of, necessary vocational rehabilitation services and related supportive services.

(f) *General provisions of contracts and arrangements.* Any contract or arrangement entered into shall, in addition to standard provisions:

(1) Provide for adherence to the terms or conditions of employment prescribed by an applicable Federal, State, or local law;

(2) Provide that determination by competent authority of failure to adhere to the terms or conditions required by paragraph (f)(1) of this section shall constitute cause for termination of the contract or arrangement;

(3) Provide that the recruitment, examination, appointment, training, promotion, retention, or any other personnel action with respect to any handicapped

individual receiving training or employment, shall be without regard to race, sex, color, creed, age, or national origin, and that violation shall constitute grounds for termination of the contract or arrangement and that the United States shall have a right to seek judicial enforcement of this provision;

(4) Provide that trainees shall be compensated for hours spent in production of any goods or services;

(5) Provide that individuals to receive training or employment services under the contract or arrangement will include only those individuals who have been determined by the appropriate State agency to be handicapped individuals who are suitable for such services;

(6) Provide reasonable assurance that handicapped individuals successfully completing the training program will be employed by the employer or within a similar enterprise;

(7) Specify the duration of the project;

(8) Contain an agreement to make such reports and to keep such records and accounts as the Commissioner may require and to make such records and accounts available for audit purposes; and

(9) Contain an agreement to provide such other information as the Commissioner may require.

(g) *Rates under contracts or arrangements.* (1) The contract or arrangement shall include the rate of compensation to be paid to trainees engaged in the production of any goods or services. In no case shall the wage rate paid a trainee be less than the following, whichever is higher:

(i) The minimum entrance rate for inexperienced workers in the same occupation or if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area; or

(ii) The minimum rate required under the Fair Labor Standards Act or the Walsh-Healy Public Contracts Act, to the extent that such acts are applicable to the trainee.

(2) The contract or arrangement shall further provide for an increasing rate of payment to trainees if the training program is of such duration that periodic increases are reasonable and if the proficiency of such trainees merits such increases.

(h) *On-the-job training.* The contract or arrangement shall:

(1) Provide for methods of instruction, progression of trainees, and size of the training group (including any appropriate combination of individualized or group training), which shall be comparable in duration to other training programs for the particular occupation, and adequate in content to qualify trainees for employment;

(2) Provide adequate and safe facilities and equipment; and

(3) Require that suitable records of attendance, performance and progress of trainees be maintained and that such records be made available to the Secretary when so requested.

§ 1362.44 Projects for vocational training services.

(a) *Terms.* For purposes of this section—

(1) "Training in occupational skills" means a planned and systematic sequence of instruction under competent supervision which is designed to impart predetermined skills and knowledge with respect to a specific occupational objective or a job family, and to assist the individual to adjust to a work environment through the development of appropriate patterns of behavior.

(2) "Work evaluation" means the appraisal of the individual's capacity.

(i) To adjust to a work environment;

(ii) To acquire occupational skills; and

(iii) To attain appropriate vocational goals.

(3) "Work testing" means the utilization of work, simulated or real, to assess the individual's productive, physical, and psychological capacity to adapt to a work environment.

(4) "Job tryouts" means work experience, within a rehabilitation facility or in conjunction with outside industry or other community resources to assist the individual to acquire knowledge and develop skills; and to assess his readiness for job placement or fitness to engage in a specific occupation.

(5) "Vocational training services" includes

(i) Training with a view toward career advancement;

(ii) Training in occupational skills;

(iii) Related services including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts, and

(iv) Payment of weekly training allowances to individuals receiving such training and related services.

(b) *Purpose.* Under section 302(b) of the Act, grants may be made to pay part of the cost of projects for providing vocational training services, leading to maximum employability, to handicapped individuals, especially the most severely handicapped, in public or other nonprofit rehabilitation facilities.

(c) *Eligible applicants.* Applications may be made by States and public and nonprofit organizations and agencies. The rehabilitation facility to be involved in the provision of vocational training services, shall:

(1) Be a public or nonprofit rehabilitation facility;

(2) Have been in operation at least 1 year;

(3) Provide training courses in occupational skills (with the major portion of each course being provided within the rehabilitation facility) and related services including work evaluation, work testing, and job tryouts and the major portion of each of these items with the exception of job tryouts, will be provided within the rehabilitation facility;

(4) Meet occupational health and safety standards prescribed by regulations of the Secretary of Labor;

(5) Substantially meet any standards for rehabilitation facilities established by the Commissioner; and

(6) Prepare trainees for gainful employment.

(d) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(e) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for the costs of weekly training allowances.

(f) *Project period.* A project may be approved for a project period not to exceed 3 years.

(g) *Assurances from applicant.* In addition to any other requirement imposed under the Act, each grant is subject to the condition that the applicant will furnish assurances that:

(1) Weekly training allowances will not reduce, but will supplement, any wages or other remuneration due to a trainee, and the amount of the payment for the weekly training allowance will be identified and disbursed separately from any payment representing wages or other remuneration due to a trainee;

(2) No trainee will remain in training when it is determined that he is no longer making progress (as indicated by regular training progress reports) toward the completion of his training program or the development of a capability for maximum employability, or in any event for more than 2 years;

(3) In the event any portion of the vocational training services is performed outside the designated rehabilitation facility, the applicant will retain responsibility for the quality of such services; and

(4) The full range of vocational training services will be made available to each trainee to the extent of his need for such services.

(h) *Selection of individuals to participate in a project.* The individuals to receive vocational training services under a project will include only individuals who have been certified as eligible pursuant to § 1361.1(f) of this chapter and have been determined, by the appropriate State agency to be suitable for and in need of such vocational training services. The most severely handicapped individuals shall be selected for participation in a project prior to other handicapped individuals.

(i) *Weekly training allowances.* (1) A weekly training allowance shall be available to each trainee, except that such allowance shall not be paid for any period in excess of 2 years and for any week shall not exceed \$30 plus \$10 for each dependent, or \$70, whichever is less. Dependents shall be included when their relationship to the trainee is that of spouse, parent, child under the age of 21 (including an adopted child or stepchild), or handicapped child whose dependency is related to the handicap, and who are living in the same home with the trainee.

(2) The amount of the weekly training allowance shall be determined in accordance with paragraphs (j) and (k) of this section. The adjusted weekly training allowance available to a trainee shall not be less than \$10 per week. To the extent that the weekly training al-

lowance is paid for dependents, the amount shall be \$10 per week for each dependent.

(3) The State agency shall make final determination, after consultation with the project facility and in accordance with the training services plan, with respect to the amount of the weekly training allowance and any adjustment to be made in the amount of the allowance.

(j) *Factors considered in determining the amount of weekly training allowances.* In determining the amount of such allowance the following factors shall be considered.

(1) The extent of the need for the allowance including any expenses reasonably attributable to receipt of training services;

(2) The extent to which the allowance will help ensure entry into and satisfactory completion of training; and

(3) The extent to which the allowance will motivate the trainee to achieve a better standard of living.

(k) *Factors considered in adjustment of weekly training allowances.* (1) Adjustment in the weekly training allowance may be made at any time during the individual's training period and the amount of the allowance shall be reviewed periodically. The project facility may propose the adjustment, but the final determination shall be made by the State agency.

(2) In considering whether adjustment is appropriate the following factors will be considered:

(i) Whether the trainee is earning a wage;

(ii) The relationship of the amount of wages, if any, to the amount of the allowance;

(iii) Any other material change in the economic condition of the individual or his family; and

(iv) The effect of any adjustment on the incentive of the trainee.

§ 1362.45 Client assistance projects.

(a) *Terms.* For purposes of this section—

(1) "Client or client applicant" means an individual who

(i) Is seeking vocational rehabilitation services from the State agency; or

(ii) Is receiving vocational rehabilitation services from the State agency; or

(iii) Has been receiving vocational rehabilitation services from the State agency but the provision of such services has been terminated without his concurrence and he is seeking assistance in connection with the termination of such services.

(2) "Counselor" means a client assistance worker who is functioning in the capacity of an ombudsman.

(3) "Project area" means the geographical or administrative area served by project counselors and designed in a manner to facilitate client or client applicant accessibility to the project.

(b) *Purpose.* Pursuant to the requirements of section 112(a) of the Act, grants may be made under section 112 for the purpose of establishing in no less than 7

nor more than 20 geographically dispersed regions client assistance pilot projects to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under the Act, and upon request of such clients or client applicants, to assist them in their relationships with the projects, programs, and facilities providing services to them under the Act.

(c) *Project awards.* Projects may be awarded only to State agencies which shall directly administer such projects.

(d) *Matching requirements.* No minimum share will be required of grantees.

(e) *Allowable costs.* Federal assistance may be available for costs specified in § 1362.8 (except for the provision of vocational rehabilitation services) and may also be available for the costs of client or client applicant travel as necessary to achieve project objectives.

(f) *Project period.* A project may be approved for a period not to exceed 3 years.

(g) *Counselor responsibilities.* Counselors employed within projects under this section will be responsible for:

(1) Interpreting the vocational rehabilitation services program to clients or client applicants;

(2) Advising clients or client applicants of benefits available to them under such program;

(3) Otherwise assisting such individuals in their relationships with projects, programs, and facilities providing vocational rehabilitation services under the Act; and

(4) Advising State agencies of identified problem areas in the delivery of vocational rehabilitation services to handicapped individuals and suggesting methods and means of improving State agency performance.

(h) *Special project considerations.* Each grant shall be subject to the condition that the applicant will furnish and comply with assurances that:

(1) No project employee shall be a person who is presently serving as staff, consultant, or receiving benefits of any kind directly or indirectly from any rehabilitation project, program or facility assisted under the Act in the project area, except for individuals receiving traineeships under Subpart E of this part;

(2) The project director shall be afforded reasonable access to policy-making and administrative personnel in State and local rehabilitation agencies, projects and facilities;

(3) All clients or client applicants within the project area shall have the opportunity to receive adequate client assistance services under the project and shall not be pressured against or otherwise discouraged from availing themselves of the client assistance services available under the project;

(4) The State agency shall make maximum effort to enter into cooperative arrangements with institutions of higher education to secure the services of graduate students who are undergoing clinical training in rehabilitation related fields, except that no compensation with funds appropriated under the Act will be

provided to such students in connection with their participation in a project under this section;

(5) The project shall contain an evaluative component to measure its effectiveness.

(i) *Reports.* An annual project report shall be submitted by the project staff through the State agency to the Secretary on the operation of the project during the previous year, including a summary of the work done, and a uniform statistical tabulation of all cases handled within the project.

Subpart C—Assistance for Rehabilitation Facilities

§ 1362.50 Project development grants.

(a) *Purpose.* Under section 301(d) of the Act, grants may be made for the purpose of assisting in meeting the costs of planning the development and construction of a specific rehabilitation facility and the services to be provided by such a rehabilitation facility.

(b) *Eligible applicants.* Applications may be made by public or other nonprofit agencies, institutions, or organizations which are either operating or are studying the feasibility of operating a rehabilitation facility.

(c) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for

(1) Expenses associated with the use of volunteers; and

(2) Such architectural plannings as is incidental to program planning, but not including working drawings.

(e) *Project period.* A project may be approved for a project period of not more than 12 months.

§ 1362.51 Grants for construction of rehabilitation facilities.

(a) *Purpose.* Under section 301(b) of the Act, grants may be made to assist in meeting the costs of construction of public or other nonprofit rehabilitation facilities. Construction of a rehabilitation facility may, where necessary to the effective operation of the facility, include the construction of residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(b) *Eligible applicants.* Applications may be made by State vocational rehabilitation agencies or other public or nonprofit organizations or agencies which operate or propose to operate a public or other nonprofit rehabilitation facility.

(c) *Matching requirements.* The amount of a grant with respect to any construction project shall be equal to the same percentage of the cost of the project as the Federal share which would be applicable in the case of a rehabilitation facility (as defined in section 645(g) of the Public Health Service Act, 42 U.S.C. 291(a)), in the same location.

(d) *Federal financial participation.*

(1) Federal financial participation may be available for

(i) Acquisition of land in connection with construction of a rehabilitation facility;

(ii) Acquisition of existing buildings;

(iii) Remodeling, alteration, renovation, or expansion of existing buildings;

(iv) Construction of new buildings;

(v) Architect's fees;

(vi) Site survey and soil investigation;

(vii) Fixed or movable equipment;

(viii) Works of art in an amount not to exceed 1 per centum of the total cost of the project; and

(ix) Other costs specifically approved in the application.

(2) Federal financial participation will not be available for the costs of offsite improvements or for the construction of any rehabilitation facility which is or will be used for religious worship or any sectarian activity.

(e) *Project period.* Grants shall be awarded for a project period necessary for the completion of the approved construction project except, however, that any project in which the construction has not begun during the 18-month period immediately subsequent to the approval of the application may be terminated at the end of such period by the Commissioner.

(f) *Assurances from applicants.* (1) In addition to any other requirement imposed under the Act, each grant in which construction is to be performed shall be subject to the condition that the applicant will furnish and comply with the following assurances and all other assurances set forth in the application for such grant:

(i) That, for a period of not less than 20 years after completion of construction of the project, it will be used as a public or other nonprofit rehabilitation facility;

(ii) That the applicant will provide a set of plans and specifications for the proposed project which have been approved by the Architectural and Transportation Barriers Compliance Board and in which due consideration shall be given to excellence of architecture and design; and

(iii) That the applicant will furnish an annual report and such other progress reports and other information as the Commissioner may require.

(2) The Commissioner may, at any time, approve exceptions to these conditions and assurances where he finds that such exceptions are not inconsistent with the Act and the purposes of the program.

(g) *Construction standards and other standards.* (1) Approved projects shall be constructed according to minimum standards of construction and equipment for rehabilitation facilities specified by the Commissioner. Applicable State and local codes and regulations must be observed. The Commissioner's standards must be followed where they exceed any State and local codes and regulations.

(2) Approved projects shall meet the requirements of the Occupational Safety and Health Act (Pub. L. 91-576); the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247) relative to environmental impact; the "American Standard Specifica-

tions for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A 117.1-1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development (24 CFR Part 40) or the Administrator of General Services (41 CFR 101-17.703); section 106 of Public Law 89-665 relative to the preservation of historic sites; Executive Order No. 11296 (31 FR 10663) relative to the avoidance of flood hazards; the Flood Disaster Protection Act of 1973 (Pub. L. 93-234); Executive Order No. 11288 (31 FR 9261) relative to the prevention, control, and abatement of water pollution; and in the case of State and local agencies, the regulations on relocation assistance and real property acquisition contained in Part 15 of this title.

§ 1362.52 Initial staffing grants.

(a) *Purpose.* Under section 301(c) of the Act, grants may be made to assist in paying part of the costs of compensation of the initial professional and technical staff of any public or nonprofit rehabilitation facility constructed after September 26, 1973.

(b) *Eligible applicants.* (1) New applications may be made by public or other nonprofit rehabilitation facilities constructed after September 26, 1973. Continuation applications may be made by those public or other nonprofit rehabilitation facilities constructed prior to September 26, 1973, which were recipients of initial staffing grants on September 26, 1973.

(2) Initial staffing grants may be made only with respect to the operation of a rehabilitation facility following construction. Where the rehabilitation facility is in operation prior to construction, an initial staffing grant shall be made only for additional staff which will enable the facility to provide new services or extend existing services to a substantially increased number of clients. Where the construction consists of expansion, remodeling, alteration, or renovation of an existing rehabilitation facility, such expansion, remodeling, alteration, or renovation shall be extensive enough to result in the addition of new services or the extension of existing services to a substantially increased number of handicapped individuals.

(c) *Matching requirements.* The amount of the Federal share under an initial staffing grant shall be related directly to the date of the commencement of the operation of the rehabilitation facility. The date of commencement of a rehabilitation facility shall be that date on which the first client is admitted for services after the completion of the related construction project or such earlier date after completion of such project as is specified in the approved application for the initial staffing grant. A grant shall not exceed 75 per centum of eligible costs for the period ending with the close of the 15th month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum

of such costs for the third year thereafter.

(d) *Federal financial participation.* Federal financial participation may be available for personnel costs (including fringe benefits) of initial staff as set forth in the approved application.

(e) *Project period.* A project may be approved for a project period not to exceed 4 years and 3 months.

§ 1362.53 Rehabilitation facility improvement grants.

(a) *Purpose.* Under section 302(c) of the Act, grants may be made for paying part of the costs of projects for rehabilitation facilities, or an organization or combination of such rehabilitation facilities, to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness or any other part of their capacity to provide employment and services for handicapped individuals.

(b) *Eligible applicants.* Applications may be made by any public or nonprofit rehabilitation facility, organization or combination of such rehabilitation facilities: In the case of rehabilitation facilities, such facilities must have been in operation for at least 12 months.

(c) *Matching requirements.* The Federal share of the approved project costs shall not exceed 80 per centum of the total project cost.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for the costs of staff development activities, including educational leave. Personnel employed under the project shall be limited to additional staff.

(e) *Project period.* A project may be approved for a project period not to exceed 3 years.

Subpart D—Rehabilitation Research

§ 1362.60 General considerations in the administration of rehabilitation research.

(a) *Purpose.* The primary purpose of all activities supported under this subpart is the development of new knowledge concerning the rehabilitation of handicapped individuals; the evaluation of existing knowledge in new settings; and the utilization of such knowledge in the delivery of vocational rehabilitation services.

(b) *Research utilization.* Each project approved under this subpart shall contain a plan designed to enhance the prompt utilization of findings of successful research and demonstration projects.

(c) *Coordination with related program activities.* All activities supported under this part shall be administered in close coordination with similar program activities of the Veterans Administration, National Science Foundation, National Academy of Sciences, National Institutes of Health and other public and private agencies and institutions.

(d) *Project period.* A project under this subpart may be approved for a project period not to exceed 5 years.

§ 1362.61 Rehabilitation research and demonstration.

(a) *Purpose.* Under section 202(a) of the Act, grants and contracts may be made to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially the most severely handicapped individuals.

(b) *Scope of activities.* Projects supported under this section may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing disability, ways of ameliorating handicapping conditions, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic and other factors affecting the rehabilitation of handicapped individuals; studies of special problems of homebound and institutionalized individuals; studies, analyses and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals especially those with the most severe handicaps.

(c) *Eligible applicants.* Applications for grants or contracts may be made by State agencies and by public or nonprofit agencies, and organizations, including universities and other educational institutions.

(d) *Matching requirements.* Federal funds will be granted on the basis of project applications, and may pay only part of the cost of the supported activity. The applicant must identify its contribution to the support of the project and is expected to finance as large a part of the total cost as possible.

§ 1362.62 Rehabilitation research and training centers.

(a) *Purpose.* Under section 202(b) (1) of the Act, grants may be made to pay part or all of the cost of the establishment and ongoing support of rehabilitation research and training centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation, and training of rehabilitation research personnel, including, but not limited to, graduate training.

(b) *Scope of activities.* Rehabilitation research and training centers must be located in institutions having a well-recognized continuing coordinated program of scientific research designed to solve complex problems regarding the management of disabling conditions and preparation of handicapped individuals for employment, training of research personnel in fields contributing to the rehabilitation of the physically or mentally disabled, and related activities designed for the dissemination and utilization of new scientific knowledge leading to an

improvement in the quality of vocational rehabilitation services for handicapped individuals. Individual research projects within the center will be planned so as to contribute in a sequential way to a coherent centralized body of knowledge. Training of research personnel within each center must be conducted in conjunction with the research activities, including to the greatest degree possible, both client care and the generation of scientific knowledge. Research related activities may include implementation and application of research findings; dissemination of new knowledge, methods and techniques in rehabilitation; research related technical assistance to State and other agencies and rehabilitation facilities; and improvement of skills of rehabilitation practitioners.

(c) *Eligible applicants.* States and public or nonprofit agencies and organizations, including institutions of higher education or rehabilitation facilities having well-recognized programs of research and associated with institutions of higher education may apply for center grants provided that the center program has a separate organizational identity.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

(e) *Federal financial participation.* Federal financial participation may be available for costs specified in § 1362.8 and may also be available for

- (1) Stipends for students (including dependency allowances);
- (2) Tuition and fees; and
- (3) Student travel.

Reimbursement of indirect costs will not exceed 15 per centum of the amount allowed for direct costs exclusive of costs for building alterations, permanent equipment, rental of space, contractual agreements, tuition, post doctoral training allowances, and client services and hospital costs.

(f) *Special considerations in the support of training.* Traineeships awarded under this section shall be subject to the provisions of § 1362.76.

§ 1362.63 Rehabilitation engineering research centers.

(a) *Purpose.* Pursuant to the requirements of section 201(a) (1) of the Act, grants may be made under section 202 (b) (2) to pay part or all of the cost of the establishment and support of rehabilitation engineering research centers to:

- (1) Develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and

(2) Cooperate with State agencies in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(b) *Scope of activities.* Each rehabilitation engineering research center must be developed around a core research area which will be explored in depth to solve the problems in the rehabilitation of handicapped individuals through the combined efforts of medical, engineering, and related sciences. Each center program must be located in a clinical rehabilitation setting which provides an environment for cooperative research and the transfer of research findings to rehabilitation practice at a reasonable cost. Center programs may emphasize the medical-technological management of disabling conditions, the adjustment to limitations of functions of the individual and the environment, service delivery systems, or other core areas, utilizing the application of new or innovative technology, and as approved by the Commissioner. Center programs must cooperate with State agencies in developing systems of information exchange and coordination to ensure the prompt utilization of research findings.

(c) *Eligible applicants.* Universities with recognized, well-developed clinical rehabilitation programs and cooperating medical and engineering schools, and State rehabilitation agencies or public or nonprofit rehabilitation facilities, organizations, or institutions associated with such universities may apply for grants provided that the center program has a separate organizational identity.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

§ 1362.64 Spinal cord injury research program.

(a) *Purpose.* Under section 202(b) (3) of the Act, grants may be made to pay part or all of the cost of projects for specialized spinal cord injury research, to be coordinated with the special projects and demonstrations for the spinal cord injured under § 1362.40. Such research will be designed to:

(1) Ensure dissemination of research findings among all projects supported under this section and under § 1362.40 (h);

(2) Provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(3) Establish and maintain close working relationships with the Veterans Administration, National Institutes of Health, other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning and promote the interchange of data and reports

among spinal cord injury investigators.

(b) *Scope of activities.* Activities under this section must be specifically directed to the achievement of new knowledge for improving rehabilitation services for the spinal cord injured, and techniques and methods connected therewith. Research and demonstration activities must focus upon the medical, psychological, vocational, or social aspects of spinal cord injury rehabilitation. Areas of research emphasis may include, but are not limited to, the development of new rehabilitation techniques and methods, the prevention and treatment of complications; and adjustment of the spinal cord injured to catastrophic disability; innovative vocational, educational and community placement services; methods of follow-up care; and the benefits of various alternative service models. Data collection and analysis components must be included within each project since research results dissemination and utilization will be an essential part of project activities.

(c) *Eligible applicants.* Applications for grants may be made by State agencies, and by other public or nonprofit agencies and organizations, including institutions of higher education, hospitals, clinics and rehabilitation facilities.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

§ 1362.65 End-stage renal disease research.

(a) Under section 202(b) (4) of the Act, grants may be made to pay part or all of the cost of a program of end-stage renal disease research, to include projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of persons suffering from such disease. Such research will be designed to:

(1) Ensure dissemination of research findings;

(2) Provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(3) Establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease.

(b) *Scope of activities.* Activities under this section must be designed as part of a continuum of projects each of which will focus on specific problem aspects of end-stage renal disease. Primary emphasis will be directed to the psychosocial and vocational aspects of end-stage renal disease and the development of experimental techniques and methods for achieving employment. Emphasis will also be directed towards:

(1) Collecting and disseminating information on end-stage renal disease derived under this program and related programs;

(2) Initiating information-sharing activities and interchange of experts in cooperation with public or other nonprofit agencies and organizations; and

(3) Producing and distributing materials necessary to enable the utilization of research findings.

(c) *Eligible applicants.* Applications for grants may be made by State agencies and by other public or nonprofit agencies and organizations, including institutions of higher education.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities supported under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

(e) *Federal financial participation.* Federal financial participation will be available for costs specified in § 1362.8, and will also be available for:

(1) Medical and technical expenses pursuant to treatment for end-stage renal disease;

(2) Purchase or rental of renal dialysis and other machines and supplies necessary for the treatment of end-stage renal disease, when such machines and supplies are not available under other Federal, State, or other program resources;

(3) Costs attendant to the training of a patient with end-stage renal disease or members of his family in the use of renal dialysis and related equipment and in other aspects of end-stage renal disease care, including the use of home aides;

(4) Costs attendant to necessary modification of a patient's living quarters;

(5) Hospital and related medical expenses for a donor of a kidney;

(6) Laboratory fees; and

(7) Tissue matching.

(f) *Special grant considerations.* If an individual selected to participate in a program under this section is eligible for and is receiving services for the treatment of end-stage renal disease under any other Federal, State, or other programs, the costs of such services shall not be attributed to a grant under this section.

§ 1362.66 International program for rehabilitation research, demonstration, and training.

(a) *Purpose.* Under section 202(b) (5) of the Act, the Commissioner may make grants to pay all or part of the cost of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(b) *Scope of activities: Research and demonstration.* International research and demonstration grants for planning or conducting research in other countries must support, strengthen and, whenever possible, be fully integrated with domestic rehabilitation research activities of high priority to the United States and participating countries. Insofar as possible, research and demonstration projects shall relate to, or be closely affiliated with, a collaborating research center or institution in the United States which is conducting comparable research and demonstration activities. Research projects of high potential which had been initiated under Pub. L. 480 with counterpart funds which are no longer available may be continued under this section in order to take full advantage of rehabilitation research capabilities developed with institutions of higher education, rehabilitation centers and individual researchers in other countries.

(c) *Scope of activities: Training.* Grants may be made with governments and public or nonprofit organizations and agencies cooperating with the United States for short-term training of rehabilitation personnel from the participating countries when such training will be of substantial benefit to handicapped individuals in the United States. Training will be designed to provide each trainee with research as well as practitioner skills. Grants may similarly be entered into with other governments for the training of U.S. citizens in cooperating countries, where such training will lead to the development of new knowledge and methods in the rehabilitation of handicapped individuals in the United States.

(d) *Scope of activities: Information exchange.* Grants may be made with other governments, public or nonprofit domestic and international organizations and agencies to plan, cooperate and assist with the collection, translation, publication and dissemination of international program and research information of significant interest to rehabilitation practitioners and researchers in the United States. International information sharing and utilization conferences, seminars and workshops may be conducted in cooperation with public and nonprofit agencies, and governments to promote the exchange of rehabilitation information in areas of priority rehabilitation concern to U.S. practitioners and researchers.

(e) *Scope of activities: Interchange of experts.* Grants may be made for the interchange of U.S. and foreign scientists, experts, practitioners and administrators engaged in significant rehabilitation research or service programs with special implication for improving rehabilitation knowledge and practice in the United States. Short-term fellowships, including travel and per diem not to exceed a 3 month duration, may be awarded to qualified individuals from the United States and participating countries (if counterpart funds are not available) for lecture tours, demonstrations and practical applications of new and improved techniques, methods and con-

cepts for rehabilitating handicapped individuals.

(f) *Scope of activities: Technical assistance.* In cooperation with the Agency for International Development, the United Nations and other international organizations and agencies, grants may be made to cooperate with and assist countries which request technical assistance in the field of rehabilitation of the handicapped with special emphasis on increasing the levels of skill of rehabilitation personnel. Grants may also be made with other governments or research organizations within countries when such organizations possess specialized or unusual expertise not found in the United States to provide technical assistance to U.S. public and private nonprofit rehabilitation agencies and organizations.

(g) *Eligible applicants.* Applications for grants for international projects of research and demonstrations, international exchange of information and technical assistance may be made by international and domestic public and nonprofit agencies and organizations, including institutions of higher education. Applications for fellowships may be made to the Commissioner by qualified experts. A foreign expert and scientist must have approval of the appropriate government ministry of their government before applying for a fellowship. Individuals applying for traineeships and fellowships must be citizens of their respective countries.

(h) *Federal financial participation.* Federal financial participation will be available for costs specified in § 1362.8 except that in the case of grantees from other countries, Federal financial participation will not be available in indirect costs and Federal financial participation will be available for costs of equipment only with the prior approval of the Commissioner and provided that (1) the equipment has been manufactured by a company owned and located within the United States; (2) the equipment has been proven to be essential for the conduct of the project; (3) the equipment is not available in the country where the project is being conducted; and (4) the research organization does not have sufficient funds to purchase the equipment.

Subpart E—Rehabilitation Training

§ 1362.70 Purpose.

(a) *Long-term training.* Under section 203(a) of the Act, grants or contracts may be made for the support of training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) *Short-term training.* Under section 400(a)(2) of the Act, short-term training and instruction may be provided in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of traineeships, with such stipends and allowances (including travel and subsistence expenses), as are necessary.

(c) *Research fellowships.* Under section 400(a)(2) of the Act, research fellowships may be established and maintained in technical matters relating to vocational rehabilitation services, with such stipends and allowances (including travel and subsistence expenses), as are necessary.

§ 1362.71 Eligible applicants.

(a) *Long-term training; short-term training.* Applications may be made by State agencies and public or nonprofit agencies and organizations, including institutions of higher education.

(b) *Research fellowships.* Applications for research fellowships may be made by any person who has a demonstrated ability and special aptitude for advanced research training or productive research scholarship in any of the professional fields which contribute to the vocational rehabilitation of handicapped persons.

§ 1362.72 Matching requirements.

(a) *Long-term training.* Under section 203(a) of the Act, grants and contracts may pay only part of the project cost. The applicant is expected to furnish as large a part of the total project cost as possible. Insofar as possible, in the case of projects extending beyond one year, the applicant's share of the teaching costs is expected to increase progressively in each succeeding year and total personnel costs should be fully absorbed by the grantee at the termination of the project period.

(b) *Short-term training.* Although no minimum share will be required of applicants under section 400(a)(2) of the Act, they may be expected to share in the costs of the project. In such cases, the amount of grantee participation will be a matter of negotiation.

§ 1362.73 Federal financial participation.

Federal financial participation may be available for the costs specified in § 1362.8 and may also be available for (a) Student stipends (including dependency allowances); (b) tuition and fees; and (c) Student travel. Except in the case of State vocational rehabilitation agencies, other agencies of a State, or agencies of local governments, reimbursement of indirect costs will not exceed 8 per centum of the amount allowed for direct costs, exclusive of permanent equipment, rental of space, building alteration or renovation, subagreements (except for procurements), tuition, fees, and training expenses for postdoctoral trainees.

§ 1362.74 Project period.

(a) *Long-term training.* A project may be approved for a project period not to exceed 5 years.

(b) *Short-term training.* A project may be approved for a project period not to exceed 12 months.

§ 1362.75 Fields of support.

Grants or contracts will be made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. Such balanced program will

include, as appropriate, projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals. Such program will also include projects to train individuals to work more effectively with handicapped individuals with limited English-speaking ability with particular attention on the development of language skills and the understanding of the cultural needs of such individuals.

§ 1362.76 Traineeships and research fellowships.

(a) Traineeships and research fellowships may provide financial support to students for technical, pre-baccalaureate, baccalaureate, graduate, post-graduate, or special non-academic training.

(b) No training or instruction (including a combination of traineeship and research fellowship awards) shall be provided to an individual for any one course of study extending for a period in excess of four years.

(c) Each trainee and fellow must meet the following general requirements:

(1) He must be a United States citizen or a foreign national lawfully admitted to the United States for permanent residence;

(2) He must take the training only at the educational institution or agency designated in the traineeship or fellowship award;

(3) He must not be an employee of the Federal Government; and

(4) He must not concurrently receive educational allowances from any other Federal, State, or local public or voluntary agency when that allowance is conditioned on a conflicting employment obligation incurred by the trainee, except for federally assisted student loans, or educational allowances or benefits payable under chapters 34, 35, and 36 of Title 38, U.S.C. as limited by section 213 of the Veterans Education and Training Amendments Act of 1972, or educational allowances or benefits for veterans payable under any State or local program.

(d) An applicant for a traineeship must apply to the institution or agency which has been awarded a grant for traineeships under this subpart. Selection of all trainees is made by the institution or agency.

(e) Applicants for research fellowships must file applications in accord with procedures prescribed by the Secretary.

Subpart F—National Center for Deaf-Blind Youths and Adults

§ 1362.80 Terms.

For the purpose of this subpart

(a) "Center" means the National Center for Deaf-Blind Youths and Adults, including its field offices;

(b) "Deaf-blind individuals" means persons who are blind as defined in § 1361.1(b) of this chapter and have a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification and the combination of the two disabilities causes extreme difficulty for the person to attain independence in activities of daily living, psychosocial adjustment, or in the pursuit of a vocational objective; and

(c) "Grantee" means the public or nonprofit agency or organization selected as the party to the agreement to receive funds for the construction and operation of the National Center for Deaf-Blind Youths and Adults.

§ 1362.81 Purpose.

Under section 305 of the Act, the Secretary may enter into an agreement with any public or nonprofit agency or organization for payment of all or part of the costs of the establishment and operation, including construction and equipment, of a center for the vocational rehabilitation of handicapped individuals who are both deaf and blind, which shall be known as the National Center for Deaf-Blind Youths and Adults.

§ 1362.82 Proposals.

The scope of the commitment in the agreement shall encompass, but not be limited to, the following areas of activity:

(a) The construction of a facility for the vocational rehabilitation of handicapped individuals who are both deaf and blind, which will be especially adapted to the needs of deaf-blind individuals;

(b) The demonstration of methods which provide the specialized intensive services and other services, needed to rehabilitate handicapped individuals who are both deaf and blind;

(c) The training of professional and allied personnel needed to staff facilities specifically designed to provide such services and training of such personnel who have been or will be working with deaf-blind individuals.

(d) The conduct of research with respect to the problems of deaf-blind individuals and their rehabilitation;

(e) The conduct of related activities which will expand or improve the services for deaf-blind individuals, and

(f) The improvement of public understanding concerning the needs of deaf-blind individuals.

§ 1362.83 Agreement.

The agreement shall:

(a) Provide that Federal funds paid to the grantee for the Center will be used only for the purpose for which paid and in accordance with the applicable provisions of the Act, these regulations, and the terms and conditions of the agreement.

(b) Provide that the grantee will make annual fiscal, progress, and other special reports at such time and in such form as required by the Commissioner.

§ 1362.84 Selection of grantee.

The selection of the grantee will be made by the Commissioner with preference given to the application that:

(a) Gives promise of maximum effectiveness in the organization and operation of the Center, and

(b) Gives promise of offering the most substantial skill, experience and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

Subpart G—Program and Project Evaluation

§ 1362.90 Program and project evaluation.

(a) *Purpose.* Under section 401(a)(1) of the Act, the Secretary shall measure and evaluate the impact of all programs authorized under the Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services.

(b) *Awards.* Contracts may be awarded to any agency or organization with the demonstrated capacity to conduct evaluation studies under this subpart. Contracts for the study of program activities conducted under the Act may only be awarded to agencies or organizations which are not immediately involved in the administration of the program or project to be evaluated.

(c) *Standards for evaluation.* Part 1370 of this chapter contains the Secretary's general standards for:

(1) The evaluation of programs authorized under the Act; and

(2) The evaluation of project effectiveness in achieving the objectives of the Act.

(d) *General considerations in program and project evaluation activities.* (1) Evaluation studies shall be conducted only by persons not immediately involved in the administration of the program or project being evaluated.

(2) Where appropriate, comparisons with appropriate control groups, composed of persons who have not participated in such programs, will be included in evaluation studies.

(3) Evaluation studies shall reflect continuing technical competence and program relevance, and shall be designed to assure timely progress.

(4) In carrying out evaluation studies of programs and projects supported under the Act, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in such programs and projects, and handicapped individuals served by such programs and projects.

(c) *Special considerations in the evaluation of rehabilitation research and demonstrations.* (1) The Secretary shall, on an annual basis, and after taking into consideration the views of the State agencies, design evaluation studies concerned with the conduct of rehabilitation research and demonstration activities under Subpart D of this part which shall be used to:

(i) Reassesses priorities to which such activities should be directed; and

(ii) Review present research, demonstration, and related activities to determine in terms of the purposes specified in

Subpart D of this part, whether and on what basis such activities should be continued, revised, or terminated.

(2) Within 12 months after enactment of the Act, and on each April 1 thereafter, the Secretary shall prepare and furnish to the appropriate committees of Congress a complete report of such determination and review cited in this section, along with such recommendations as may be appropriate.

§ 1362.91 Intramural research.

Under section 400(c) of the Act, the Secretary shall (directly or by grants or contracts) conduct studies, investigations, and evaluation of programs authorized by the Act, and make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, the development of their potentials, their utilization in gainful and suitable employment, and with respect to architectural, transportation and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

Subpart H—Technical Assistance

§ 1362.100 Furnishing of technical assistance.

Technical assistance authorized in section 304(e) of the Act will be furnished, directly, or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof to

provide technical assistance and consultation:

(a) To public and nonprofit rehabilitation facilities in matters of professional or business practice within the facility and

(b) To public and nonprofit agencies, institutions, organizations, or facilities for the purpose of planning or effecting the removal of architectural and transportation barriers *provided* that such technical assistance shall be provided with the concurrence of the Architectural and Transportation Barriers Compliance Board.

§ 1362.101 Per diem payments.

Experts or consultants, while providing technical assistance consultations pursuant to § 1362.100, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the prorated pay rate for a person employed at a GS-18, under section 5332 of Title 5, United States Code, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, United States Code, for persons in the government service employed intermittently.

§ 1362.102 Recommendations and reports.

A rehabilitation facility or public or nonprofit agency, institution, organiza-

tion or facility which receives technical assistance consultations will be furnished with the recommendations of the consultant. A copy of the recommendations will also be furnished to the appropriate State agency. The rehabilitation facility or public or non-profit agency, institution, organization or facility receiving the technical assistance will be expected to provide a prompt report to the Rehabilitation Services Administration concerning the consultation and a report 6 months afterwards as to what has been done about the recommendations.

Effective Date: These regulations shall be effective November 25, 1975.

(Catalog of Federal Domestic Assistance Program Nos. 13.624, Rehabilitation Services and Facilities—Basic Support; 13.625, Vocational Rehabilitation Services for Social Security Disability Beneficiaries; 13.626, Rehabilitation Services and Facilities—Special Projects; 13.627, Rehabilitation Research and Demonstrations; 13.628, Rehabilitation Training)

Dated: September 9, 1975.

ANDREW S. ADAMS,
*Commissioner, Rehabilitation
Services Administration.*

Approved: September 29, 1975.

STANLEY B. THOMAS, Jr.,
*Assistant Secretary for Human
Development.*

Approved: November 14, 1975.

DAVID MATHEWS, *Secretary.*
[FR Doc.75-31646 Filed 11-24-75; 8:45 am]

FRIDAY, DECEMBER 19, 1975



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Human Development Office

VOCATIONAL REHABILITATION PROGRAMS AND PROJECTS

Evaluation Standards



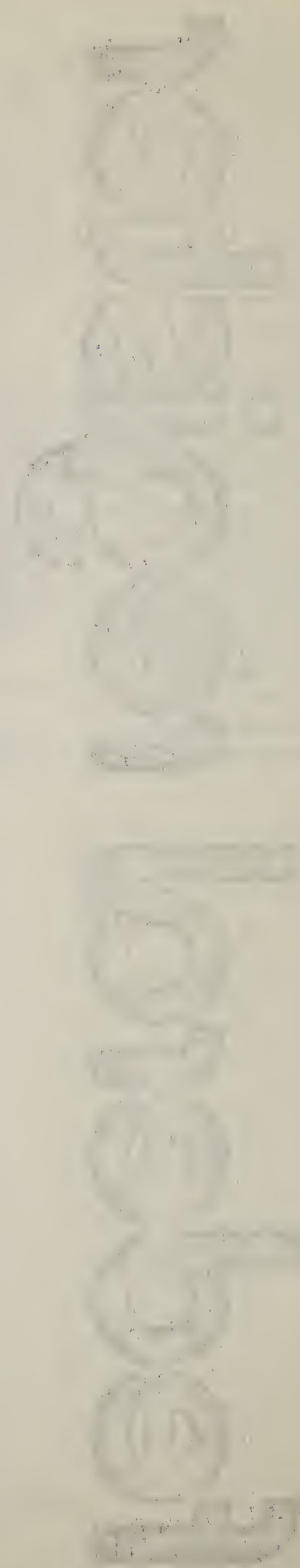
OFFICE

DEPARTMENT OF
HEALTH,
EDUCATION AND
WELFARE

Human Development Office

VOCATIONAL
REHABILITATION
PROGRAMS AND
PROJECTS

Washington, D.C.



Title 45—Public Welfare

CHAPTER IV—SOCIAL AND REHABILITATION SERVICE (REHABILITATION PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 410—EVALUATION STANDARDS

Revocation of Part

CROSS REFERENCE: For a document issued by the Department of Health, Education, and Welfare, Office of Human Development (Rehabilitation Programs) revising and transferring the provisions of Part 410 to Title 45, Chapter XIII, Part 1370, see FR Doc. 75-34095, also appearing in this Part II of the issue.

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT (REHABILITATION PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1370—EVALUATION STANDARDS

Standards for Evaluating Vocational Rehabilitation Programs and Projects; Implementation Provisions

In the FEDERAL REGISTER of July 2, 1974 (39 FR 24366), Interim Regulations setting forth Standards for Evaluating Programs and Projects under the Rehabilitation Act of 1973 (Pub. L. 93-112) were published as a new Part 410 of Chapter IV of Title 45 of the Code of Federal Regulations.

Part 410 stated that the purposes of the Standards are to establish criteria for evaluating program effectiveness, for increasing program accountability, and for encouraging State vocational rehabilitation agencies to conduct more comprehensive evaluation of their programs. Data collected from the Standards were to be used to compare programs and projects in deciding whether to renew or supplement financial assistance pursuant to section 401(b) of the Rehabilitation Act of 1973. Part 410 defined various terms unique to the rehabilitation process and to the Statistical Reporting System described in the regulations of the Rehabilitation Services Administration. The methodology section stated that the implementation of the Standards is both a State and Federal responsibility and that four separate issues would be addressed in the application of the Standards: Impact on the target population; degree of change in reaching gainful activities goals through rehabilitation services; program performance in meeting the priority for providing services to the severely handicapped; and effectiveness of a program in utilizing available resources.

Following the statement of the principal objectives of the Rehabilitation Act of 1973, nine General Standards for Program Evaluation were set forth under three headings: persons served; program efficiency; and client outcomes. Subsumed under each of the nine Standards were various data elements which set forth statistical processes intended to measure the program under evaluation. Performance levels were not set in the

original publication. Development and publication, however, were assured by the end of Fiscal Year 1975.

The publication of Interim Regulations provided for the submittal of comments within 30 days of publication, ending August 3, 1974. This period of comment was extended to September 3, 1974. All comments received by September 30, 1974 were carefully considered as a part of the revision process. During the months following the publication of the Interim Regulations, State, Regional and Central Office rehabilitation personnel engaged in extensive field study of the Standards and related data elements. Therefore, revisions to the Interim Regulations were made on the basis of comments received and the experience gained from working with the Standards.

Thirteen letters were received containing 56 specific major criticisms and numerous general observations regarding the various sections and data elements contained in the Interim Regulations. The comments were from State Vocational Rehabilitation Agency Directors, private organizations, the National Association of Councils of State Governments, Federal staff members and the Council of State Administrators of Vocational Rehabilitation.

Revisions were made to the Interim Regulations to accomplish the following purposes: (a) Clarify ambiguities surrounding various terms; (b) eliminate gross errors; (c) establish consistency with other regulations, reporting requirements and definitions; (d) remove confusion regarding the purposes and uses of the Standards in relation to forthcoming performance levels; and (e) provide for uniform data reporting and processing procedures.

The most significant comments and the Department's decisions concerning them are presented in the following paragraphs:

1. Numerous comments were received about the lack of clarity concerning the purpose and use of the Standards as expressed in § 410.1(a), particularly with regard to measuring program performance on the basis of data "in aggregate."

Experience gained while working with the Interim Regulations substantiated this lack of clarity and raised an additional and related issue in § 410.1(c), that the existence of data elements under specific Standards does not "insure" acceptable performance with regard to the various concerns expressed by the "standards" statements. Accordingly, the Department is clarifying in paragraphs (a) and (c) of § 410.1 that the Standards are not to be used primarily for comparison purposes, either between States or between disability groups, but rather are to be used for measuring overall program performance and impact and for assisting the Secretary to analyze and make necessary programmatic decisions.

Additionally, clarification is made that the performance levels which have been established reflect measures of central tendency with adequate levels of statis-

tical significance to permit reasonable program variation, thus offering a criterion by which acceptable program performance can be both judged and "insured."

2. There were many comments that pointed out errors and deficiencies in the definitions in § 410.2, paragraphs (c)(5) and (c)(6) which cite 30 days after the obtaining of suitable employment as the minimum time before case closure can be effected. Since the Regulations require a minimum period of 60 days before closure can be effected, these paragraphs have been modified accordingly.

Comments were also raised concerning the omission of various needed definitions to provide for clarity and consistency in complying with the Standards. Specifically requested were definitions for the terms "cases accepted" and "cases served." Experience in working with the Interim Regulations indicated that additional definitions concerning statuses contained in the RSA Statistical Reporting System would be helpful in eliminating further ambiguity. In response, the Department has added definitions of "Status 06, Extended Evaluation" and of "Statuses 10 through 24" which pertain to active cases.

Finally, a thorough examination of this section revealed that paragraph (c) contained an incorrect reference to the source of the Statistical Reporting System definitions. This error has been corrected.

3. The Departmental review of the Interim Regulations indicated that § 410.3 on methodology did not adequately treat matters concerning implementation of and compliance with the Standards set forth in § 410.5. For this reason the Department has completely revised this Section in order to provide information necessary for methodological guidance to State agency personnel involved with the implementation of these regulations. Two States specifically cited the need for this Section to address levels of statistical significance. These concerns have been addressed in the revised methodology section.

One respondent raised specific criticism regarding the instruction for each State to "report on a self-evaluation." Although this reference is not now included in the Section on methodology, the Department's position in this issuance and in other agency regulations is that States are required to conduct ongoing studies and evaluation of their agency's performance. With regard to the Secretary's Standards, however, the evaluation and analyses conducted for decision-making purposes will be made by the Secretary in accordance with section 401(b) of the Rehabilitation Act of 1973.

4. Two comments were received concerning the statement of the objectives of the rehabilitation program in § 410.4: the first alleges inconsistency with the statutory objectives established in the Rehabilitation Act of 1973; the second

asserts the lack of precision in defining "quality vocational rehabilitation services" in paragraph (a). In response to the first comment, the Department notes that the respondent compared the objectives set forth in the Interim Regulations with the language of Section 2, Declaration of Purpose, of the Rehabilitation Act of 1973 (Pub. L. 93-112). It was not the intention of the Department in these regulations simply to repeat that declaration of purpose, but rather to set forth more general objectives of the rehabilitation program. No change has been made in this section, since the Department feels that the statements as presented are not inconsistent with the overall objectives of the rehabilitation program. With regard to the matter of "quality vocational rehabilitation services," the Department was not addressing problems of definition in § 410.4(a) and does not intend to interpret that term in this issuance.

5. The majority of the comments received dealt specifically with the general standards for evaluation set forth in § 410.5. Criticisms and suggestions addressed each of the nine Standards and nearly all of the data elements subsumed under each Standard. Many of the objections resulted from a misunderstanding concerning the statement of Standards and data elements without any specification of performance levels. Most of the comments received dealt with misapplication of information resulting from the RSA Statistical Reporting System; inconsistencies regarding the use

of terms and units of measurement; the lack of processing or procedural guidance; and the difficulty of providing information on newly-implemented programs that lack regulations and guidelines upon which specific program performance can be measured.

In addition to the observations and criticism received from the field, the experience amassed by Central and Regional staff of the Rehabilitation Services Administration and Vocational Rehabilitation State agency personnel and University-based technicians revealed that the overall logic, consistency, style, and reporting burden were such that massive revision, particularly to the data elements, was essential to assure program information of such quality that accurate analyses could be carried out by the Secretary in his decision-making process.

For this reason, revision has been made to the data elements subsumed under each Standard statement.

More specifically, the Department has made the following general revisions:

(a) An analysis of each Standard was made and data elements logically related to that Standard were chosen so that the reporting burden of State agencies could either be maintained or decreased.

(b) Data elements were developed which are consistent with reports contained in the RSA Statistical Reporting System and with statistical procedures applicable to that system, or which require States to carry out information-

gathering or follow-up studies to produce information related specifically to relevant program activities;

(c) Duplicative data elements were eliminated;

(d) Data elements relating to new State agency programs that lack adequate Federal guidance were reworked to permit some latitude in planning and preparing agency response;

(e) In order to establish consistency, either statutory or regulatory language was used, consistent measures of central tendency were applied, and a consistent style of presentation was used.

(f) Performance levels for each standard have been established.

After promulgation of these Regulations, guidelines will be issued by the Department to provide the additional information and technical assistance necessary to assure full implementation of the Secretary's Standards for program evaluation in conformance with the Rehabilitation Act of 1973, as amended, and the Regulations.

It is also noted that the regulations for vocational rehabilitation programs and activities have been removed from Chapter IV of Title 45 of the Code of Federal Regulations and relocated in Chapter XIII which will cover all programs administered by the Office of Human Development within the Department of Health, Education, and Welfare. Regulations covering the evaluation standards for vocational rehabilitation services programs, formerly published in Part 410, are now found in Part 1370. It will be necessary therefore for State vocational rehabilitation agencies and other rehabilitation agencies to revise previously published State policy materials which include citations to Federal vocational rehabilitation regulations in order to conform with the revised organization of the Code of Federal Regulations.

Accordingly, the regulations as revised are hereby adopted. Chapter IV of Title 45 of the Code of Federal Regulations is amended by revoking Part 410, and Chapter XIII of Title 45 of the Code of Federal Regulations is amended by adding Part 1370 as follows:

Sec.

1370.1 Purpose of standards.

1370.2 Definitions.

1370.3 Methodology.

1370.4 Objectives of the rehabilitation program.

1370.5 General standards for evaluation.

AUTHORITY: Sec. 400(b), 97 Stat. 386 (29 U.S.C. 780(b)).

§ 1370.1 Purpose of standards.

(a) The general standards include measures of program performance which address overall program impact, as well as the effectiveness of certain program elements. Their structure is sufficiently specific to provide guidance with respect to required data elements, yet broad enough to allow individual States to augment the requirements by including results of their own evaluations and experience. Federal personnel will work with State agencies and others to im-

prove these Standards and the methods by which they are applied.

(b) The purposes of these standards are:

(1) To establish criteria for the evaluation of program effectiveness, i.e., the degree to which the rehabilitation system is accomplishing its stated objectives;

(2) To increase program accountability by focusing on those demonstrated processes generally agreed to increase program effectiveness;

(3) To require State agencies to carry out more comprehensive evaluation of their programs to determine if the program goals are being achieved within resource capabilities and if not, the reasons therefore.

(c) Data collected in response to these general standards will be analyzed and utilized by the Secretary "in deciding * * * whether to renew or supplement financial assistance" pursuant to section 401(b) of the Rehabilitation Act of 1973. However, before such actions are initiated. States which are found to be more than one standard deviation from the mean in established standards will be afforded ample time and opportunity to explain variances and seek consultation or technical assistance, or enter into negotiations in order to resolve problems at issue.

§ 1370.2 Definitions.

(a) *Program*. A program is any continuing activity which is funded by the Rehabilitation Services Administration (RSA).

(b) *Project*. A project is a discrete activity with a definite termination date.

(c) *Cases accepted*. A case is accepted once it is placed in or has passed through Status 10.

(d) *Cases served*. A case is served if it is or has been in one of the active caseload statuses (i.e. 10 through 24) during the reporting period.

(e) *Statistical Reporting System Caseload Statuses* (as defined in section 3005.00 of the Rehabilitation Services Manual)—(1) *Status 00. Referral*. This status represents entrance into the vocational rehabilitation process. A referral is defined as any individual who has applied to or been referred to the vocational rehabilitation agency by letter, by telephone, by direct contact, or by any other means; and for whom the following minimum information has been furnished: name and address, disability, age and sex, date of referral, and source of referral;

(2) *Status 02. Applicant*. As soon as the referred individual (Status 00) signs a document requesting vocational rehabilitation services, he is placed into Status 02 and is designated as an applicant. Generally, the document will be an agency application form, but a letter signed by an individual who provides the minimum basic referral information and requests service should also be considered as a basis for placing the individual in Status 02. This is important, since the applicant must be notified in writing if

his request for vocational rehabilitation services has been denied, and the only certain basis for determining that the individual has knowledge of having been referred is by the existence of a document signed by the individual;

(3) *Status 06. Extended Evaluation.*

(i) An applicant should be placed in this status when the counselor has certified the applicant for extended evaluation. Individuals placed in this status may not remain in the status longer than eighteen consecutive months from the date of certification but may be moved from this status to either Status 10 or 08 at any time prior to the expiration of the 18-month period if it is determined that, either (A) there is a reasonable expectation that the individual can benefit in terms of employability (Status 10), or (B) there is no reasonable likelihood that he can benefit in terms of employability (Status 08). No time allowances can be made for interruptions during this period regardless of the nature of, or reason for, the interruptions.

(ii) Prior to or simultaneously with acceptance of an individual for services for purposes of determination of rehabilitation potential (extended evaluation), there will be a certification of: (A) the presence of a physical or mental disability, (B) the existence of a substantial handicap to employment, and (C) the inability to make a determination that vocational rehabilitation services may benefit the individual in terms of employability. An individualized written rehabilitation program is required concurrently with or reasonably soon after execution of the certificate of eligibility for extended evaluation services.

(4) *Status 08. Closed From Referral, Applicant, or Extended Evaluation Statuses.* This status has been provided to furnish a means for identifying all persons not accepted for vocational rehabilitation services, whether closed from referral status (00), applicant status (02), or extended evaluation (06). All persons processed through referral, applicant, and/or extended evaluation, and not accepted into the active caseload for vocational rehabilitation services, will be closed in this status. A certificate of ineligibility is required for a closure in Status 08, except when the client becomes unavailable for services. A copy of the Form RSA-300, properly completed, dated, and signed is sufficient certification of ineligibility for these cases, provided case documentation includes specific detailed reasons for the closure action;

(5) *Status 10. Individualized Written Rehabilitation Program Development.* While a client is in this status, the case study and diagnosis is completed to provide a basis for the formulation of the individualized written rehabilitation program. A comprehensive case study is basic to determining the nature and scope of services to be provided in order to accomplish the vocational rehabilitation objective of the individual. The counselor and client formulate and plan the rehabilitation services necessary to the solution of the client's problem, and those services are clearly outlined to him.

The individual remains in this status until his rehabilitation program is written and approved;

(6) *Statuses 10-24. Active Caseload Statuses.* Active caseload statuses begin with the development of the individualized written rehabilitation program (Status 10). A client is placed in Status 12 when his individualized written rehabilitation program has been approved. Statuses 14, 16 and 18 are the in service statuses and are provided for case progress designations to indicate the kind or kinds of services given to the client to prepare him for employment. Status 14 indicates counseling and guidance only; Status 16 designates physical and mental restoration, and Status 18 is the training status. A client is placed in Status 20 when he has completed training and is ready for employment. Status 22 indicates the client has been placed in employment. Status 24, service interrupted, is recorded if services are interrupted while the client is in one of the Statuses, 14, 16, 18, 20 or 22;

(7) *Status 26. Closed Rehabilitated.* Cases closed as rehabilitated must, as a minimum have been declared eligible, have received appropriate diagnostic and related services, have had a program for vocational rehabilitation services formulated, have completed the program insofar as possible, have been provided counseling as an essential rehabilitation service, and have been determined to be suitably employed for a minimum of 60 days;

(8) *Status 28. Closed Other Reasons After Individualized Written Rehabilitation Program Initiated.* Cases closed in this category must have been declared eligible, have received appropriate diagnostic and related services and have had a program for vocational rehabilitation services formulated, but have not completed the program and/or have not been provided counseling, and/or have not been determined to be suitably employed for a minimum of 60 days;

(9) *Status 30. Closed Other Reasons Before Individualized Written Rehabilitation Program Initiated.* Cases closed in this category are those cases which, although accepted for rehabilitation services, did not progress to the point that rehabilitation services were actually initiated under a rehabilitation plan.

(f) *Upper performance level.* The upper performance level for a data element is defined as the average value (of all agency averages) for the data element, plus one standard deviation. (The average and the standard deviation are computed over the population of individual agency averages.)

(g) *Lower performance level.* The lower performance level for a data element is defined as the average value (of all agency averages) for the data element, minus one standard deviation. (The Average and the standard deviation are computed over the population of the individual agency averages.)

§ 1370.3 Methodology.

(a) Implementation of the General Standards is both a State and a Federal responsibility.

(b)(1) Evaluation of vocational rehabilitation programs. (i) Each State will be asked to submit information based on the most recent information available, addressing the specific data elements described under each general standard. In addition, States may describe the results of any other evaluation activities undertaken in these areas.

(ii) A principal concern of both the State and Federal VR programs is the interpretation of the compared values for each data element associated with the General Standards. The data elements were selected as descriptors of the various VR State activities. It is intended that the collection of data elements specified under each Standard characterize the essential quantitative aspects of the concept embodied in the Standard. The performance levels for each data element were set at one standard deviation above and below national or regional averages.

(iii) Although the performance levels do represent relatively high or low limits for values of the data elements, it does not necessarily follow that, because a State VR agency falls outside of the performance range specified for each data element, the agency is doing a particularly exceptional or poor job with respect to the VR program concept represented by the Standard. It is quite possible that many agencies, even those having extreme values for certain data elements, are exhibiting quite satisfactory performance with respect to certain programmatic goals. Furthermore, it is recognized that there are many reasons why States may reasonably differ substantially with respect to the data elements: local demographic conditions, nature of the population served, agency policy and philosophy. It is in this context that it is intended that the data element performance levels provide a basis for recognizing unusual program features, leading to a better understanding of overall program performance. From the viewpoint of the individual VR agency, it is perhaps the year-to-year changes in the values of the data elements that will provide the greatest insight into program performance, rather than the agency-to-agency differences.

(2) Information on certain of the data elements may not be readily available to States. Examples of such data may include follow-up information, counselor data and caseload management information. In such instances, States are expected to conduct periodic sample surveys to obtain the required data. Further information on the allowable statistical significance of these studies, as well as on the frequency of performance, will be provided in guidelines.

(c) Evaluation of vocational rehabilitation projects. Projects are to be judged by the extent to which they would contribute to improvement in the normal vocational rehabilitation program performance, as measured by the evaluation standards. Following are specific criteria according to which projects will be evaluated:

(1) Specificity of goals (to be evaluated before project is approved);

(2) Extent to which project benefits the vocational rehabilitation program;
(3) Feasibility of transferring to the vocational rehabilitation program knowledge acquired from the project.

(d) Validation of data. In order to validate the appropriateness and accuracy of information submitted as it relates to the Standards in question, particularly 2(vi), 5, 6, 7(ii) and 9, instruments prepared for such validation may be administered.

§ 1370.4 Objectives of the rehabilitation program.

The principal objectives of the Rehabilitation Act of 1973 are:

(a) To maintain and improve State-Federal programs of quality vocational rehabilitation services and to redirect the public rehabilitation program towards the expansion of services to the severely handicapped;

(b) To provide the opportunity for active participation by the client in the development of the client's individualized written rehabilitation program;

(c) To provide special attention to target groups whose rehabilitation problems are known to be difficult;

(d) To promote the elimination of barriers in the environment which impede the handicapped in employment, housing, and transportation;

(e) To utilize to the fullest possible extent community, State and Federal resources in the rehabilitation of the client and the extent to which those funds are marshalled to increase and improve:

(1) The supply of trained rehabilitation manpower;

(2) Rehabilitation knowledge and techniques;

(3) Rehabilitation facilities;

(f) To promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place individuals in gainful activities;

(g) To provide education to the general public and handicapped population about the rehabilitation of the handicapped and to disseminate information pertaining to rehabilitation;

(h) To develop a process of evaluation as to the effectiveness of present programming on different disability groups.

§ 1370.5 General standards for evaluation.

The evaluation standards address four basic issues: the degree to which the entire eligible population is reached and affected; the degree of change experienced towards the goal of gainful employment which occurs as a result of vocational rehabilitation services; the extent to which the program meets the mandated priority to provide services to the severely handicapped; and the efficiency with which the program utilizes available resources to accomplish its goals. This section sets forth the general evaluation standards. Standards are grouped under three headings: persons served; program efficiency and outcomes. Under each standard various data elements are listed. Performance levels are

cited for each data element. The normal range for a data element is specified in terms of upper and lower performance levels, which are set one standard deviation above and below national or regional averages of the data element. A performance level one standard deviation above the mean is the "upper performance level". A performance level one standard deviation below the mean is the "lower performance level". In most cases, the performance level range is closed only on one end; i.e., only an upper or lower performance level, whichever is appropriate, is specified. If an upper performance level is specified, the data element would normally have a value below the performance level. If a lower performance level is specified, the data element would normally have a value above the performance level. In certain instances, different performance levels are specified for several different regional groupings. It is emphasized that the performance levels cited for each data element do not represent national or regional averages. Rather, they specify a range of usual values for the data element, and a small portion of agencies would normally exhibit data element values beyond this range. Wherever possible, reports on the data elements should be provided separately for the severely handicapped and the non-severely handicapped. When this is not possible, the use of aggregate data should be indicated. For the latter case (aggregate data), separate performance levels are cited for blind and general agencies.

(a) *Persons served.* In order to assure that the rehabilitation program objectives and priorities, as identified in the Act, are being adhered to, it is necessary to identify the size and characteristics of the eligible population, the extent to which rehabilitation services are made available to the eligible population, and the respective numbers and types of clients who successfully complete the program. Special attention is to be given to an accurate and detailed evaluation of the manner in which services are expanded and improved to the severely handicapped.

(1) *Standard No. 1.* To insure that the rehabilitation program is serving the eligible disabled population and to insure that these services are provided in an equitable manner.

(i) Estimate of the total population eligible for VR services. Describe methodology. This "data element" is not conducive to specification of a quantitative performance level: States should indicate the analytical procedure used to estimate the target population, cite the estimate, and provide an indication of the precision of this estimate (e.g., the standard error of the estimate).

(ii) Number of accepted cases served (Statuses 10 through 30) for the year. No specific performance level is cited for this data element. States should compare the number of accepted cases served to the estimate of the target population (from paragraph (a)(1)(i) of this section), and to their total budget.

(iii) Percent of annual increase or decrease in number of accepted cases served (Statuses 10 through 30). The lower limit for performance on this data element is 0% increase.

(iv) Number of cases closed rehabilitated during the year (Status 26). No specific performance level is cited for this data element. States should compare number of cases closed rehabilitated to other variables, such as the estimate of the target population in paragraph (a)(1)(i) of this section, the number of accepted cases served, and the number of severely disabled cases served.

(v) Accepted cases (Statuses 10 through 24) as a percentage of the total of cases closed not accepted (Status 08) plus those cases accepted (Statuses 10 through 24), i.e.,

$$\frac{\text{Statuses 10-24}}{\text{Status 08} + \text{Statuses 10-24}}$$

The following performance levels are specified for this data element:

General agencies:	
Lower level.....	0.44
Upper level.....	.62
Blind agencies:	
Lower level.....	.34
Upper level.....	.65

(2) *Standard No. 2.* To insure that rehabilitated clients are placed in gainful employment suitable to their capabilities.

(i) Percent of those placed in competitive employment (wage and salary earners and self-employment). The following lower performance levels are specified for this data element:

	Percent
General agencies.....	70
Blind agencies.....	40

(ii) Percent of those placed in non-competitive employment (sheltered workshops, and others). Upper performance levels for this data element are:

	Percent
General agencies.....	6
Blind agencies.....	12

(iii) Percent of those placed as homemakers. Upper performance levels for this data element are:

	Percent
General agencies.....	18
Blind agencies.....	42

(iv) Percent of those placed as unpaid family workers. Upper performance levels for this data element are:

	Percent
General agencies.....	4
Blind agencies.....	7

(v) Percent of those placed in business enterprise programs. No performance level is specified for this data element.

(vi) Those who received training related to the job family in which they were placed (as identified by the first digit of the Dictionary of Occupational Titles code) as a percentage of the total number who received training. No specific performance level is cited for this data element. If a State is unable to provide the specified information, it should identify reasons why, and out-

line a plan for setting up procedures to collect the required information.

(vii) Mean weekly earnings in the week before referral of all rehabilitated clients, including clients with zero earnings. No performance levels are specified for this data element.

(viii) Mean weekly earnings at closure of all rehabilitated clients, including clients with zero earnings. Lower performance levels for this data element are:

Regions 2, 3, 5, 9:	Dollars
General	75
Blind	45
Regions 1, 7, 8, 10:	
General	85
Blind	55
Regions 4, 6:	
General	65
Blind	45

(b) *Program efficiency.* Program elements are evaluated to determine whether there is an optimal usage of available resources to maximize the flow through of clients, while maintaining quality of services.

(1) *Standard No. 3.* To insure that undue delays are avoided in providing clients with VR services.

(i) Mean time from combined referral-applicant statuses (Statuses 00-02) to closed not accepted (Status 08). Upper performance levels for this data element are:

	Months
General agencies	10
Blind agencies	16

(ii) Mean time in extended evaluation (Status 06) for cases closed not accepted (Status 08). Upper performance levels for this data element are:

	Months
General agencies	12
Blind agencies	12

(iii) Mean time from combined referral-applicant statuses (Statuses 00-02) to accepted statuses for cases closed rehabilitated (Status 26) and closed not rehabilitated (Statuses 28-30) during the fiscal year. Upper performance levels for this data element are:

(A) For status 26:	Months
General agencies	5
Blind agencies	7
(B) For statuses 28-30:	
General agencies	6
Blind agencies	8

(iv) Mean time in extended evaluation (Status 06) for cases closed rehabilitated (Status 26) and closed not rehabilitated (Statuses 28-30) during the fiscal year. Upper performance levels for this data element are:

(A) For status 26:	Months
General agencies	9
Blind agencies	13
(B) For statuses 28-30:	
General agencies	9
Blind agencies	15

(v) Mean time from accepted case statuses (Statuses 10 through 24) to closed rehabilitated (Status 26). Upper performance levels for this data element are:

	Months
General agencies	22
Blind agencies	22

(vi) Mean time in accepted case statuses (Statuses 10 through 24) to closed not rehabilitated after rehabilitation program initiated (Status 28). Upper performance levels for this data element are:

	Months
General agencies	25
Blind agencies	34

(vii) Mean time in accepted case statuses (Statuses 10 through 24) to closed not rehabilitated before rehabilitation program initiated (Status 30). Upper performance levels for this data element are:

	Months
General agencies	16
Blind agencies	28

(2) *Standard No. 4.* To insure that available resources are utilized to achieve maximum operational efficiency.

(i) Mean case service cost per accepted case closure (Statuses 26, 28 and 30) where case service cost to the State vocational rehabilitation agency was involved. Upper performance levels for this data element are:

(A) For status 26:	Dollars
General Agencies	1,100
Blind agencies	2,700
(B) For statuses 28-30:	
General agencies	700
Blind agencies	1,800

(ii) Percent of clients receiving rehabilitation services at no cost to the vocational rehabilitation agency. No performance level is specified for this data element.

(iii) Percent distribution of total vocational rehabilitation dollars spent for agency operations each fiscal year as reported on the RSA-2 expenditure report. Upper performance levels for this data element are:

Type of Expenditure	[In percent]	
	General	Blind
Administration	12	20
Counseling and placement	45	45
Services to individuals	65	55
Small business enterprise	2	20
Establishment of rehabilitation facilities	10	10
Other	2	2

(iv) Mean case service cost per type of vocational rehabilitation case service involving cost to the State agency, and percentage of individuals receiving specific vocational rehabilitation service. The following table specifies upper performance levels (in percents) for each of the service categories:

Type of service	[In percent]	
	General	Blind
Diagnostic and evaluation	25	20
Restoration (physical and mental)	45	30
Training	55	65
Maintenance	25	20
Services to family members	1	1
Other services	15	15

(3) *Standard No. 5.* To insure that manageable-sized caseloads are maintained. (To insure uniform reporting by all State agencies on this Standard, a "caseload carrying counselor" is to be defined as "one to whom cases are assigned and who issues vendor authorization under the Basic Support Program".)

(i) Number of caseload carrying counselor man years. No performance levels are specified for this data element.

(ii) Number of authorized and funded full-time caseload carrying counselor positions. No performance levels are specified for this data element.

(iii) Number and percent of rehabilitation counselor turnover, i.e., (A) hiring rate—new hirings divided by mean number of authorized and funded full-time caseload carrying counselor positions during the year (B) separation rate—caseload carrying counselors leaving job during the year divided by number of authorized and funded full-time caseload carrying counselor positions during the year. No performance levels are specified for this data element at this time.

(iv) Mean size of caseloads as of June 30th per number of authorized and funded caseload carrying counselor positions. The following performance levels are specified for this data element:

General agencies:	
Lower level	53
Upper level	143
Blind agencies:	
Lower level	21
Upper level	60

(v) Describe the process, if any, employed by the State for each of following functions: caseload management; caseload monitoring; caseload review. No quantitative performance level is specified for this data element. Process descriptions should include specification of quantitative process descriptors, whenever possible.

(c) *Client outcomes.* To determine whether the rehabilitation system is achieving its stated objective, it is necessary to ascertain whether rehabilitated clients retain, over time, benefits derived from the rehabilitation system. Therefore, an effective follow-up system should include a means to determine the degree of client's satisfaction with the client's program and services, the percentage of clients who have remained in gainful employment and the extent to which those activities are related to skills acquired while in the rehabilitation system; and the extent to which "post-employment" (section 103(a)(2) (Pub. L. 93-112) services are needed and provided. No quantitative performance levels are specified at this time for the data elements of Standard 6 and 9, or for data element 7ii. It is recognized that many States do not have established procedures for conducting the follow-up surveys required to efficiently collect the information required to compute the data elements. If a State already has follow-up data that permit computation of values for some data elements, it should submit those values. Otherwise, minimum performance under Standards 6, 7, and 9 would include a written plan for con-

ducting the surveys and other procedures required to collect the required information and compute the data elements. This plan should include a detailed specification of what procedures will be adopted to determine estimates for each data element (e.g., survey design, instrument design, sampling procedures, estimation procedures, confidence limits).

(1) *Standard No. 6.* To insure that clients closed rehabilitated retain the benefits obtained from the rehabilitation process.

(i) Percent of rehabilitated clients still employed at time of follow-up, specifying 1 year, 2 years, or 3 years after closure;

(ii) Percent with earnings at follow-up, mean earnings at follow-up, and mean earnings for all with or without earnings at follow-up;

(iii) Percent increase or decrease of earnings at closure to earnings at follow-up;

(iv) Percent of rehabilitated clients (Status 26) unemployed at follow-up for: less than 1 month, 1-3 months, 4-6 months, 7-12 months, more than 12 months.

(2) *Standard No. 7.* To insure that the need for post-employment (post-closure, section 103(a) (2), Pub. L. 93-112) services is satisfied.

(i) Percent of rehabilitated clients in the previous fiscal year (Status 26) receiving post-employment (post-closure) services during the 12 months following closure;

(ii) Percent receiving the following types of post-employment services of the total receiving post-employment services:

- (A) Diagnostic and evaluation;
- (B) Restoration (physical or mental);
- (C) Training;
- (D) Guidance and counseling only;
- (E) Maintenance;
- (F) Transportation;
- (G) Other.

(3) *Standard No. 8.* To insure that agencies are consistently identifying reasons why clients are not successfully rehabilitated.

(i) Percent of Status 08, 28, and 30 closures by the following reasons:

(A) Unable to locate or unable to contact or moved;

(B) Handicap too severe or unfavorable medical prognosis;

(C) Refused services or further services;

(D) Death;

(E) Client institutionalized;

(F) Transferred to another agency;

(G) Failure to cooperate;

(H) No disabling condition (08 closures only);

(I) No vocational handicap (08 closures only);

(J) Other.

The following table specifies upper performance levels (in percents) for each of the above reasons, by closure category (08, 28, 30):

Reason	Closure category		
	08	28	30
A.....	25	45	45
B.....	20	25	20
C.....	40	25	40
D.....	5	20	16
E.....	2	8	6
F.....	4	7	4
G.....	20	20	20
H.....	25		
I.....	12		
J.....	30	25	30

(ii) Cases closed not rehabilitated (Statuses 28+30) as a percentage of the total accepted cases closed (Statuses 26+28+30). Upper performance levels for this data element are:

	Percent
General agencies.....	35
Blind agencies.....	25

(4) *Standard No. 9.* To insure that the client is satisfied with the vocational

rehabilitation services as developed with the counselor.

(i) Percent of clients rehabilitated throughout the fiscal year (Status 26) and not rehabilitated (Statuses 28+30) throughout the fiscal year who express satisfaction with the following, specifying 1 year, 2 years, or 3 years:

(A) Counselor's willingness to listen to client's ideas and suggestions in developing the individualized written rehabilitation program;

(B) Adequacy of information provided by counselor to clients for understanding their disability;

(C) Promptness in the delivery of services;

(D) Kind of training received;

(E) Benefits of training received;

(F) Assistance in seeking job and final employment;

(G) Results of physical restoration services.

(ii) Percentage of clients contacted during the followup period who stated they would recommend vocational rehabilitation to a disabled friend.

Effective date. These regulations shall be effective December 19, 1975.

(Catalog of Federal Domestic Assistance Program Nos. 13.624, Rehabilitation Services and Facilities—Basic Support; 13.625, Vocational Rehabilitation Services for Social Security Disability Beneficiaries; 13.626, Rehabilitation Services and Facilities—Special Projects)

Dated: September 24, 1975.

ANDREW S. ADAMS,
*Commissioner, Rehabilitation
Services Administration.*

Approved: October 2, 1975.

STANLEY B. THOMAS, Jr.,
*Assistant Secretary for Human
Development.*

Approved: December 12, 1975.

DAVID MATHEWS,
Secretary.

[FR Doc.75-34095 Filed 12-18-75;8:45 am]

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

Office of Human Development

Rehabilitation Services Administration

TO : Directors
Office of Rehabilitation Services
Regions I-X

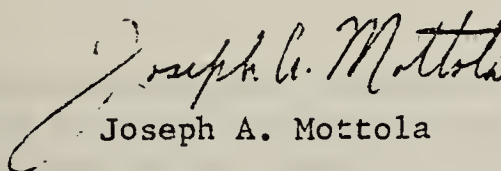
DATE: February 14, 1977

Acting
FROM : Commissioner of Rehabilitation Services

SUBJECT: Work with State Agencies to Improve Visual Evaluation in All Cases of
Deaf and Severely Hearing Impaired Clients

The attached Draft Program Instruction was prepared after extensive work by Central Office RSA staff in cooperation with representatives of deaf organizations and the GSAVR. However, in the final clearance process prior to issuance, Office of General Counsel advised that the proper procedure for establishing mandatory visual evaluations in deafness cases was a new regulation, not interpretation of the language relating to the thorough diagnostic study.

RSA is currently working to prepare a regulation on this topic. The process, however, is lengthy and will delay implementation of this important and necessary consideration in client services. Consequently, we are requesting that you share the intent of this draft Program Instruction with your State agencies and request that they review their own policies and procedures in this area. We hope that your communication with States might have the same effect in voluntary compliance as would be the case under a new regulation.


Joseph A. Mottola

Attachment

TO : THE SECRETARY OF THE ARMY
FROM : THE SECRETARY OF THE ARMY
SUBJECT: [Illegible]

1. [Illegible]

2. [Illegible]

3. [Illegible]

4. [Illegible]

5. [Illegible]

Very truly yours,
[Illegible Signature]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
OFFICE OF HUMAN DEVELOPMENT
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D. C. 20201

PROGRAM INSTRUCTION

DRAFT

TO: STATE REHABILITATION AGENCIES (GENERAL)
STATE REHABILITATION AGENCIES (BLIND)

SUBJECT: Visual Evaluation in all Cases of Deaf and Severely
Handicapped Hearing Impaired Clients as part of the
Thorough Diagnostic Study

CONTENT: Section 1361.35(c) of the regulations for the Rehabilitation
Act of 1973, as amended, covering the thorough diagnostic
study of the evaluation of rehabilitation potential, requires
that..."in the case of blindness, a screening for hearing
loss will be obtained..."

This instruction provides a new interpretation of
Section 1361.35 establishing that a similar provision be
made in the thorough diagnostic study for a visual evaluation
in all cases of deafness and severe hearing impairment.
In response to requests by the RSA Advisory Committee on
Deafness, RSA, over the past nine months, has studied the
nature and scope of necessary visual evaluation so that deaf
and severely handicapped hard-of-hearing vocational rehabili-
tation clients receive an adequate comprehensive evaluation of
their vision. This Program Instruction is the result of
those efforts.

The process of determining the components of a visual evalua-
tion in this area included extensive consultation with the
Committee on Deafness of the Council of State Administrators
of Vocational Rehabilitation as well as professionals from
the visual care professions.

Effective (date*) all deaf and severely handicapped
hard-of-hearing clients shall be provided with a visual
evaluation by either a physician skilled in diseases of the
eye, or by an optometrist. This visual evaluation shall be a part
of the thorough diagnostic study, that is after eligibility
has been determined, or after the client has been assigned to

* date will be set

DRAFT

Content
(cont'd)

extended evaluation. Visual evaluations are needed to have early diagnosis of retinitis pigmentosa and other conditions related to the onset of visual loss or blindness. It is essential that comprehensive evaluation of visual functioning occur in all cases of deafness and severe hearing impairment in that by definition all deaf persons rely on sight for communication and comprehension. Visual functioning is a factor which directly bears on the handicap of deafness and hence on the client's vocational potential and rehabilitation needs.

Agency policies and procedures shall be revised to provide that for all clients with the handicap of deafness or severe hearing impairment found eligible for services or accepted for extended evaluation after (date*) , the findings of the visual evaluation conducted as a part of the thorough diagnostic study will be recorded in the case record for the individual. Clients receiving services on the effective date who have not received a visual evaluation, shall receive an evaluation, as soon as possible.

Forthcoming RS Manual Chapters on "Physician's Services and Medical Diagnosis" (Chapter 1515) and "Evaluation of Rehabilitation Potential" (Chapter 1503) will discuss this element of the thorough diagnostic study in more detail. As is customary for the State-Federal program, neither this memorandum nor the forthcoming chapters will specify in detail the evaluation tests to be used by physicians or optometrists. Nor shall we address specific details of desired reporting, documentation, fees, or arrangements for providing the visual evaluation.

We would suggest, however, particular attention to the following points:

1. States should establish standards of quality, reporting, and fees for the evaluations, involving their coordinators of services for the deaf, vision care professionals, medical consultants, and administrative specialists in the decision process;
2. Substantively, the information provided in the evaluations should be organized to provide counselors with effective information on the two major and related facets of (1) visual functioning and refraction, and (2) signs of active pathology, particularly retinitis pigmentosa or glaucoma;

* date will be set

State Rehabilitation Agencies (General)
State Rehabilitation Agencies (Blind)

Content
(cont'd)

3. States may wish to provide cost-effective visual evaluations under conditions most conducive to the use of ancillary personnel such as nurses and interpreters for the deaf (e.g., conducting visual evaluations at periodic intervals for deaf clients at a central rehabilitation center or office);
4. States may want to arrange for the visual evaluations to occur under auspices of referral sources or service providers, such as schools for the deaf, colleges and universities, or special projects;
5. Interpreters will be necessary in most instances for visual evaluations (see the forthcoming chapter 1531, Interpreter Services); and
6. Counselors should be thoroughly oriented to this aspect of the thorough diagnostic study and the underlying reasons for its promulgation.

INQUIRIES TO: Inquiries concerning the content of this memorandum should be directed to Mr. Frederick Sachs, Assistant Commissioner for Program Management, Rehabilitation Services Administration, 330 C Street, S. W., Washington, D. C. 20201, or to the Regional Director, Office of Rehabilitation Services.

DRAFT

Acting Commissioner of Rehabilitation Services

1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are in agreement with the experimental facts.

2. The second part of the paper is devoted to a discussion of the specific properties of the atom. It is shown that the specific properties of the atom are determined by the laws of quantum mechanics, and that the laws of quantum mechanics are in agreement with the experimental facts.

3. The third part of the paper is devoted to a discussion of the applications of the theory of the structure of the atom. It is shown that the theory of the structure of the atom has many important applications, and that the laws of quantum mechanics are in agreement with the experimental facts.

4. The fourth part of the paper is devoted to a discussion of the conclusions of the theory of the structure of the atom. It is shown that the theory of the structure of the atom is in agreement with the experimental facts, and that the laws of quantum mechanics are in agreement with the experimental facts.

5. The fifth part of the paper is devoted to a discussion of the future of the theory of the structure of the atom. It is shown that the theory of the structure of the atom is still in the early stages of development, and that the laws of quantum mechanics are in agreement with the experimental facts.

1950

THE UNIVERSITY OF CHICAGO

LIBRARY

1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are in agreement with the experimental facts.

2. The second part of the paper is devoted to a discussion of the specific properties of the atom. It is shown that the specific properties of the atom are determined by the laws of quantum mechanics, and that the laws of quantum mechanics are in agreement with the experimental facts.

1950

THE FIRST STEPS TOWARD GETTING INVOLVED

1. Study the provisions of the Rehabilitation Act of 1973, the accompanying HEW regulations, and your state laws and regulations concerning vocational rehabilitation. Note the opportunities for utilizing a number of aspects of the scope of optometry. Also note the "freedom of choice" provisions.
2. State associations should seek to seat ODs as members of state advisory commissions which administer the state funding for vocational rehabilitation and/or plan program aspects.
3. Optometrists must be available to work on committees and subcommittees which are appointed in conjunction with state advisory commissions. This is often the most practical approach.
4. Optometrists must work closely with State Director of Vocational Rehabilitation wherever possible to include dissemination of literature about the profession. (e.g., AOA booklet OPTOMETRY TODAY)
5. Invite State vocational rehabilitation officials to any State association meetings.
6. Make contact with other organizations which are concerned with vocational rehabilitation. Work with them on feature articles, state legislation, regulations and programs connected with vocational rehabilitation.
7. The schools and colleges of optometry, or other optometric entities capable of research or providing services, may wish to contract with HEW regions for research and/or training projects.
8. Particularly emphasize the cost-effectiveness to the state by utilizing optometrists for vision services.
9. Local vocational rehabilitation counselors are the key to real optometric participation in the program. They have charge of activities such as referrals to health care specialists.

Get to know these counselors. Be helpful to them in providing information concerning the role of optometry, particularly in the field of low vision. Give them the opportunity to speak and work with optometric groups, as well as other organizations concerned with this field in which you may be a member.

10. Participate in state inservice training programs wherever possible.

Each state is authorized a certain amount of money for inservice training of vocational counselors. States are free to spend this money in any way they see fit and in many instances they do invite health professionals to lecture at counselor training classes. State Presidents or Executive Directors should check with the state director of vocational rehabilitation to find out if they use guest lecturers and how an optometrist may participate.

A related idea to pursue is training paraprofessionals concerning the importance and use of low vision aids.

A description of a course co-sponsored by the California Optometric Association and the University of California School of Optometry is attached. Please feel free to contact the California Optometric Association for further details.

11. Develop a relationship with the State Medical Director in the Vocational Rehabilitation Department. Seek to educate him as well as extend invitations to him as speaker to state optometric functions.
12. Of the 82 Universities and Colleges which are offering degrees in Vocational Counseling, find out which of these schools have programs utilizing guest lecturers. A list of the 82 schools is attached. Get optometry included in the list of lecturers.
13. Work with your state and local optometric associations in any projects they may have under this program.

14. Publicize vocational rehabilitation through optometric and external media. Emphasize concrete examples of optometry helping people. Since government officials and leaders of other concerned groups read newspapers and other publications, too, this will prove to be a valuable indirect method to reinforce optometric participation.
15. Invite other officials of involved government agencies and concerned organizations to meet with and speak to optometric meetings. Also, keep them in mind when it becomes time to pass out recognition awards.
16. Should you have any questions, please contact your state association public health chairman. State associations with questions are encouraged to contact their HEW Regional Liaisons or, if required, the National Health Division in the AOA Washington Office or the Primary Care Division in the St. Louis office.
17. Be aware that it has been a practice in the past for some states to provide certain services and other States to provide other services, with the individual programs being determined by the state according to their own individual needs or fiat. One illustrative example is: if a person was functioning as a janitor and has a documented case of poor visual distance acuity, but cannot read printed material at close range, many state programs would not provide services for this individual, arguing that glasses would not affect his job performance. Another example: A woman being trained for domestic work with severe dental problems might not be eligible for state vocational rehabilitation in that the status of her dental needs would have no bearing on her holding or not holding a particular job. These are rather basic examples, but they are extremely important in understanding why services vary so drastically from state to state regardless of the financial status of that particular state.
18. There will on occasion be cases of documented discrimination against optometrists. In cases such as this, the individual optometrist, either through his state association or directly, may present the evidence in letter form to:

Dr. Douglas C. MacFarland, Director
Office for the Blind and Visually Handicapped
Rehabilitation Services Administration
330 C Street, S.W., Room 3332
Washington, D.C. 20201

19. Cooperate with your state's vocational education program. Often there is a tie-in with vocational rehabilitation, either through eligible persons or types of services. Investigate your state's vocational education program and get involved.
20. Where demonstration projects are involved (Title II: see fact sheet and law), be innovative. Not only are low vision projects a possibility, but also such aspects as hand-eye coordination for a person who hurt his hand in an occupation-related machine due to inadequate hand-eye coordination.
21. One final note: don't pass up an opportunity to bring state and even local vocational rehabilitation officials to see an optometric educational institution or low vision clinic.

OPTOMETRISTS OFFER COURSE FOR REHABILITATION COUNSELORS

Another optometric first? We're not sure yet, but a recent program co-sponsored by COA and the U.C. Berkeley School of Optometry may well have been the first of its kind.

The subject of the program was "Blindness and Associated Conditions." The audience consisted of rehabilitation counselors from the California Department of Rehabilitation and six COA staff members, including William K. Kitchin, COA executive director, who thinks that the Berkeley program may represent "the first time that organized optometry in concert with a school of optometry has presented a specific program on the subject of blindness for personnel of a state agency."

About 50 rehabilitation counselors attended the program which was designed to serve as a training course for state personnel involved in a Business Enterprise program for the blind. Gerald D. Belchick, training consultant for the State Department of Rehabilitation selected the subject of blindness for this federally-funded program and invited counselors from throughout the state to attend.

Introduction

For many of those who attended, the Berkeley program represented the first training they had received on problems associated with the handicap of blindness. Yukio Wada, a Business Enterprise Program officer, commented after the program that "this was the first time after 20 years that I have received this kind of specific training on the handicap that we [in BEP] are dealing with."

Belchick told one COA staff member that many of the attendees either were not specialists in counseling the blind or had not been involved in specialized counseling at all. "We're getting away from the old concept of specialized counseling," he said. "The direction now is toward more generalized training, so that

our counselors will be able to work with more than one group of clients."

Why did the state come to COA to set up the one-day program on blindness? "Apparently, they were pleased with the workshop we put on for them last year on the 'Scope of Optometry,'" says Kitchin, referring to last year's conference for re-

and Dr. Levin who made the final presentation — a comprehensive account of available low vision aids.

The counselors were asked to give written evaluations of the training course to Belchick, who passed them on to COA. Most of the rehabilitation personnel gave the organizers and lecturers high



marks. Dan Kreuger, a rehabilitation counselor from Chico/Redding, wrote that the program was "the best training this Department [of Rehabilitation] has ever presented." John Spalding, a supervising Business Enterprise program officer in Los Angeles considered the course to be "of great help" to him despite the fact that he has "worked with the legally blind for 29 years."

Says Kitchin, "Not only could organized optometry in other states present a similar program to the one COA co-sponsored at Berkeley, but our own Auxiliary might benefit greatly from attending a one-day seminar such as this one. Since many of the doctors' wives help out in the office at times, a course such as this one would help them understand the problems and conditions of those blind or partially sighted patients who come into the office."

Another first in the making?



Kenneth Poise, O.D.

habilitation counselors and medical secretaries, which also was co-sponsored by COA and presented by the U.C. Berkeley School of Optometry.

Robert Mandell, O.D., Ph.D., professor and associate dean of the UCB School of Optometry, and Milton Levin, O.D., assistant clinical professor, worked together to organize the program which featured a two-part presentation on the causes and treatment of blindness by Kenneth Poise, O.D., associate professor and director of clinics at UCB. Other speakers included Ian Bailey, O.D., director of the Berkeley low vision clinic, who spoke on the "Psychological Implications of Blindness,"



The audience, top photo, listens to Drs. Ian Bailey, left, and Milton Levin, above.

The first part of the paper discusses the importance of maintaining accurate records of all transactions. This is essential for the proper management of the business and for the preparation of financial statements. The second part of the paper discusses the importance of maintaining accurate records of all transactions.

The third part of the paper discusses the importance of maintaining accurate records of all transactions. This is essential for the proper management of the business and for the preparation of financial statements. The fourth part of the paper discusses the importance of maintaining accurate records of all transactions.

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The seventh part of the paper discusses the importance of maintaining accurate records of all transactions. This is essential for the proper management of the business and for the preparation of financial statements. The eighth part of the paper discusses the importance of maintaining accurate records of all transactions.

Educational Institutions
Receiving Rehabilitation Training Grants in the Field of
Rehabilitation Counseling in Academic Year ~~1975~~-76-77

Alabama

University of Alabama
Area of Behavioral Studies
College of Education
Box 1926
University, Alabama 35486
Doral West, Ed.D.
Program Director
Rehabilitation Counseling

Auburn University
Counselor Education
2068 Haley Center
Auburn, Alabama 36830
Conrad M. Allen, Ph.D.
Coordinator
Rehabilitation Counselor Project

Arizona

University of Arizona
Rehabilitation Center
College of Education
Tucson, Arizona 85721
Bob G. Johnson, Ed.D.
Professor

Arkansas

Arkansas State University
Department of Counselor Education
and Psychology
Box 898
State University, Arkansas 72467
C. L. MacLarty, Ed.D.
Coordinator
Rehabilitation Counselor Training
Program

California

California State University, Fresno
Allied Health Professions
Cedar at Shaw
Fresno, California 93740
Joseph L. Townsend, Ed.D.
Coordinator
Rehabilitation Counseling Training
Program

California (cont.)

California State University, Los Angeles
5151 State College Drive
Los Angeles, California 90032
Raymond Hillis, Ph.D.
Chairman
Guidance Department

California State University, Sacramento
Department of Counselor Education
6000 J Street
Sacramento, California 95819
Forrest D. Baribeau, Ed.D.
Coordinator
Rehabilitation Counselor Program

California State University, San Diego
Department of Counselor Education
5402 College Avenue
San Diego, California 92182
Fred R. MacFarlane, Ph.D.
Director
Rehabilitation Counselor Program

California State University, San Francisco
75 Southgate Avenue
Daly City, California 94015
William Evraiff, Ed.D.
Coordinator
Rehabilitation Counseling Training
Program

University of Southern California
Department of Counselor Education
503 Phillips Hall
University Park
Los Angeles, California 90007
Rosemary Callahan
Acting Coordinator
Rehabilitation Counseling Program

Colorado

University of Northern Colorado
School of Special Education and
Rehabilitation
Greeley, Colorado 80631
Richard R. Wolfe, Ph.D.
Professor
Department of Social and Rehabilitation
Service

Connecticut

University of Connecticut
School of Education, U-64
Storrs, Connecticut 06268
Edward A. Wicas, Ed.D.
Associate Professor
Department of Educational Psychology

District of Columbia

Gallaudet College
(Rehabilitation Counseling with the Deaf)
7th and Florida Avenue, N. E.
Washington, D. C. 20002
Robert C. Mehan
Chairman
Department of Counseling

The George Washington University
2120 L Street, N. W.
Suite 255
Washington, D. C. 20052
Daniel Sinick, Ph.D.
Professor
Department of Education

Florida

Florida State University
Department of Rehabilitative Sciences
432 Hull Drive
Tallahassee, Florida 32306
C. L. Lowman, Ed.D.
Coordinator
Rehabilitation Services Training Program

University of Florida
College of Health Related Professions
J. H. Miller Health Center
Box 756
Gainesville, Florida 32601
Jerold D. Bozarth, Ph.D.
Chairman
Department of Rehabilitation Counseling

Georgia

Georgia State University
33 Gilmer Street, S. E.
Atlanta, Georgia 30303
Stanley J. Smits, Ph.D.
Associate Professor
Department of Counseling and
Psychological Services

Georgia (cont.)

University of Georgia
College of Education
413 Aderhold Hall
Athens, Georgia 30602
Timothy F. Field, Ph.D.
Acting Coordinator
Rehabilitation Counselor Training
Program

Hawaii

University of Hawaii
2444 Dole Street
Honolulu, Hawaii 96822
Esther Brommer, Ph.D.
Project Coordinator
Department of Educational
Psychology

Idaho

University of Idaho
Moscow, Idaho 83843
Harold W. James, Ph.D.
Guidance and Counseling Department

Illinois

Illinois Institute of Technology
3300 South Federal Street
Chicago, Illinois 60616
Glen O. Geist, Ph.D.
Associate Professor
Department of Psychology and
Education

Southern Illinois University
Rehabilitation Institute
Carbondale, Illinois 62901
Brockman Schumacher, Ph.D.
Coordinator
Rehabilitation Counselor Training

Indiana

Indiana University-Purdue
University at Indianapolis
1208 East 38th Street
"B" Building
Indianapolis, Indiana 46208
Martin Leshner, Ph.D.
Chairman
Department of Psychology

Iowa

University of Iowa
College of Education
Iowa City, Iowa 52242
Leonard A. Miller, Ph.D.
Coordinator
Division of Counselor Education

Kansas

Kansas State Teachers College
Counselor Education
1200 Commercial
Emporia, Kansas 66801
Marvin D. Kuehn, Ed.D.
Program Director
Rehabilitation Counselor Education

Kentucky

University of Kentucky
College of Education
Lexington, Kentucky 40506
C. D. Auvenshine, Ph.D.
Program Director
Rehabilitation Counseling

Louisiana

University of Southwestern
Louisiana
College of Education
Lafayette, Louisiana 70501
Robert W. Kennedy, Ed.D.
Assistant Professor
Department of Psychology

Maine

University of Maine
at Portland-Gorham
Department of Foundations
of Education
Gorham, Maine 04038
Robert S. Southworth, Ph.D.
Coordinator of Counselor
Education

Maryland

Coppin State College
Graduate Division
2500 West North Avenue
Baltimore, Maryland 21216
Sudhansu B. Mitra, Ph.D.
Associate Professor
Department of Rehabilitation
Counseling

University of Maryland
Department of Counseling and
Personnel Services
College of Education
College Park, Maryland 20742
Richard E. Lawrence, Ph.D.
Director
Rehabilitation Counselor Education

Massachusetts

Assumption College
Institute for Social and Rehabili-
tation Services
500 Salisbury Street
Worcester, Massachusetts 01609
George S. Elias, Ed.D.
Director

Boston University
Sargent College of Allied Health
Professions
881 Commonwealth Avenue
Boston, Massachusetts 02215
Arthur E. Dell Orto, Ph.D.
Chairman
Department of Rehabilitation
Counseling

Northeastern University
102 The Fenway
Boston, Massachusetts 02115
James F. Scorzelli, Ph.D.
Assistant Professor
Department of Counselor Education

Springfield College
Department of Rehabilitation Services
210 Alden Street
Springfield, Massachusetts 01109
Thomas J. Ruscio, Ed.D.
Director
Division of Community Education

Michigan

Michigan State University
Personnel Services and Educational
Psychology
431 Erickson Hall
East Lansing, Michigan 48824
Gregory A. Miller, Ph.D.
Director
Rehabilitation Counseling

University of Michigan
School of Education
Ann Arbor, Michigan 48104
Don K. Harrison, Ph.D.
Chairman
Guidance and Counseling Program

Wayne State University
347 Education Building
Detroit, Michigan 48202
Louis J. Cantoni, Ph.D.
Professor
Vocational Rehabilitation Counseling

Minnesota

Mankato State College
Mankato, Minnesota 56001
Richard Ugland, Ph.D.
Director
Rehabilitation Counseling Program

St. Cloud State College
Department of Psychology
St. Cloud, Minnesota 56301
Eugene Perkins, Ed.D.
Director
Rehabilitation Counseling Program

Mississippi

Mississippi State University
Department of Guidance Education
P. O. Box Drawer G. E.
State College, Mississippi 39672
William H. Graves, Ph.D.
Director
Rehabilitation Counselor Training Program

Jackson State University
1325 Lynch Street
Jackson, Mississippi 39217
Darwin A. Johnson, Ph.D.
Department of Psychology

Missouri

University of Missouri
College of Education
307 Parker Hall
Columbia, Missouri 65201
Richard W. Thoreson, Ph.D.
Professor
Department of Counseling and
Personnel Services

Montana

Eastern Montana College
1500 North 30th Street
Billings, Montana 59601
John H. Self, Ed.D.
Professor
Institute for Habilitative Services

Nebraska

University of Nebraska
31 E Teachers College
Lincoln, Nebraska 68508
Earl D. Wilson, Ph.D.
Associate Professor
Department of Educational Psychology
and Measurement

Nevada

University of Nevada
4505 Maryalnd Parkway
Las Vegas, Nevada 89154
Paul E. Kreider, Ph.D.
Department of Educational Foundations
and Counseling

New Hampshire

University of New Hampshire
Durham, New Hampshire 03824
Stephen T. Murphy, Ph.D.
Chairman
Department of Education

New Jersey

Seton Hall University
South Orange, New Jersey 07079
Ernest L. Tamburri, Ed.D.
Director
Rehabilitation Counselor Education

New Mexico

University of New Mexico
Department of Guidance and Special
Education
College of Education
Albuquerque, New Mexico 87131
Clifford O. Morgan, Ph.D.
Project Director
Rehabilitation Counseling

New York

Columbia University
Teachers College
Department of Psychology
525 West 120th Street
New York, New York 10027
Henry Kavkewitz, Ph.D.
Professor of Psychology
and Education

Hofstra University
1000 Fulton Avenue
Hempstead, New York 11550
Frederick A. Whitehouse, Ed.D.
Professor of Education
Department of Special Education
and Rehabilitation

Hunter College
695 Park Avenue
New York, New York 10021
Edward J. Yarosz, Ed.D.
Acting Coordinator
Graduate Programs in Guidance and
Counseling

New York University
School of Education
Washington Square
New York, New York 10003
Patricia Dvorch, Ph.D.
Project Director
Rehabilitation Counseling Program

Syracuse University
School of Education
201 Marshall Street
Syracuse, New York 13210
Lawrence B. Feinberg, Ph.D.
Associate Professor
Division of Special Education
and Rehabilitation

New York (cont.)

SUNY-Albany
Department of Guidance and Personnel
Services
1400 Washington Avenue
Albany, New York 12222
Sheldon Grand, Ph.D.
Director

SUNY-Buffalo
Education Department
3435 Main Street-27 Foster Annex
Buffalo, New York 14214
Marceline E. Jaques, Ph.D.
Director
Rehabilitation Counseling Program

North Carolina

East Carolina University
School of Allied Health and Social
Professions
Greenville, North Carolina 27834
Sheldon C. Downes, D.Ed.
Coordinator
Rehabilitation Counselor Training
Program

University of North Carolina
School of Medicine
Chapel Hill, North Carolina 27514
Robert G. Crounse, M.D.
Chairman
Rehabilitation Counseling Program

Ohio

Bowling Green State University
Department of Education
422 Education Building
Bowling Green, Ohio 43403
Robert A. McGuffie, Ph.D.
Director
Rehabilitation Counseling

Kent State University
Educational Department
311 Education Building
Kent, Ohio 44242
Martha L. Walker, Ed.D.
Project Director
Rehabilitation Counseling Program

Ohio (cont.)

University of Cincinnati
College of Community Services
306 French Hall
Cincinnati, Ohio 45221
Julian S. Myers, Ph.D.
Coordinator
Rehabilitation Counselor Training
Program

Oklahoma

Oklahoma State University
Department of Psychology
Stillwater, Oklahoma 74074
Clayton A. Morgan, Ed.D.
Coordinator
Rehabilitation Education Programs

Oregon

Oregon College of Education
(Rehabilitation Counseling with the
Deaf)
Monmouth, Oregon 97361
Richard E. Walker, Ed.D.
Program Director

Pennsylvania

The Pennsylvania State University
Department of Counselor Education
323 Social Science Building
University Park, Pennsylvania 16802
Kenneth W. Hylbert, D.Ed.
Director
Rehabilitation Education Programs

University of Pittsburgh
School of Education
4616 Henry Street
Pittsburgh, Pennsylvania 15260
Richard E. Desmond, Ph.D.
Chairman
Department of Special Education
and Rehabilitation

University of Scranton
Graduate School
Monroe and Linden Streets
Scranton, Pennsylvania 18510
Joseph A. Szuhay, Ph.D.
Chairman
Department of Human Resources

Puerto Rico

University of Puerto Rico
School of Social Work-College of
Social Sciences
Rio Piedras, Puerto Rico 00931
Mrs. Alba Palmer de Rodriguez
Director
Rehabilitation Counseling Training
Program

Rhode Island

Rhode Island College
600 Mount Pleasant Avenue
Providence, Rhode Island 02908
Rodney Goodyear, Ph.D.
Instructor
Department of Counselor Education

South Carolina

South Carolina State College
School of Education
P. O. Box 1784
Orangeburg, South Carolina 29117
Brannon Underwood
Director
Rehabilitation Counseling Program

University of South Carolina
College of Education
Columbia, South Carolina 29208
Jay M. Allen, Ed.D.
Associate Professor
Counselor Education

Tennessee

Memphis State University
Department of Special Education
and Rehabilitation
Southern Avenue
Memphis, Tennessee 38152
William M. Jenkins, Ed.D.
Coordinator of Rehabilitation
Counselor Training

University of Tennessee
College of Education
Knoxville, Tennessee 37916
William M. Holbert, Ph.D.
Professor
Department of Special Education
and Rehabilitation

Texas

Texas Tech University
P. O. Box 4100
Lubbock, Texas 79409
Leonard E. James, Ph.D.
Project Director
Rehabilitation Counseling

University of Texas at Austin
Department of Special Education
203 Sutton Hall
Austin, Texas 78712
Carl E. Hensen, Ed.D.
Associate Professor
Rehabilitation Counselor Education

University of Texas-Southwestern
Medical School
School of Allied Health Sciences
5323 Harry Hines Boulevard
Dallas, Texas 75235
Paul S. McCullum, Ph.D.
Chairman
Department of Rehabilitation Science

Utah

University of Utah
Salt Lake, Utah 84112
Orlando A. Rivera
Assistant Professor
Department of Educational Psychology

Vermont

University of Vermont
College of Education and Social Services
Burlington, Vermont 05401
Franklin P. Ryan
Director
Rehabilitation Counselor Training
Program

Virginia

Virginia Commonwealth University
Academic Division
901 West Franklin Street
Richmond, Virginia 23284
Richard E. Hardy, Ed.D.
Chairman
Department of Rehabilitation
Counseling

Washington

University of Washington
406 Miller Hall
Seattle, Washington 98105
Hussain I. Bashey, Ph.D.
Associate Professor

West Virginia

University of West Virginia
Board of Regents
504 Allen Hall
Morgantown, West Virginia 26506
Jeffrey K. Messing, Ed.D.
Professor

Wisconsin

University of Wisconsin-Madison
Studies in Behavioral Disabilities
750 University Avenue
Madison, Wisconsin 53706
Alfred Butler, Ph.D.
Coordinator
Rehabilitation Counseling

University of Wisconsin-Milwaukee
School of Education
Milwaukee, Wisconsin 53201
Ann B. Trotter, Ph.D.
Department of Educational Psychology

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